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Filing date: **06/07/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92025859
Party	Plaintiff Empresa Cubana Del Tabaco d.b.a Cubatabaco
Correspondence Address	MICHAEL R. KRINSKY RABINOWITZ BOUDIN STANDARD KRINSKY & LIEBERMAN PC 14 WALL ST, STE 3002 NEW YORK, NY 10005 UNITED STATES Primary Email: mkrinsky@rbskl.com Secondary Email(s): dgoldstein@rbskl.com, lfrank@rbskl.com 212-254-1111
Submission	Testimony For Plaintiff
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Signature	/Lindsey Frank/
Date	06/07/2021
Attachments	Written Direct Testimony of Armenteros Jorge.pdf(315308 bytes) Written Direct Testimony of Binder MD Ralph E.pdf(4519777 bytes) Written Direct Testimony of Diaz Hilda.pdf(5504813 bytes) Written Direct Testimony of Garrido de la Grana Adargelio.pdf(4835037 bytes) Written Direct Testimony of Gonzalez Silveira Bernardo.pdf(3437702 bytes) Written Direct Testimony of Halper Ari.pdf(312697 bytes) Written Direct Testimony of Jones Kirby.pdf(392586 bytes) Written Direct Testimony of Lopez Garcia Ana Part 1 of 4.pdf(5277781 bytes) Written Direct Testimony of Lopez Garcia Ana Part 2 of 4.pdf(4792906 bytes) Written Direct Testimony of Lopez Garcia Ana Part 3 of 4.pdf(5675947 bytes) Written Direct Testimony of Lopez Garcia Ana Part 4 of 4.pdf(3325767 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
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PARTY DESIGNATIONS*: Petitioner's Designations During Its Trial Period—Yellow or Pink
Respondent's Designations During Its Trial Period—Green
Petitioner's Designations During Its Rebuttal Period—Blue

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony of Jorge Armenteros, dated May 30, 2003**

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EMPRESA CUBANA DEL TABACO d.b.a.		:
CUBATABACO,		:
		:
Plaintiff,		:
		:
- against -		:
		:
CULBRO CORPORATION, and GENERAL		:
CIGAR CO., INC.,		:
		:
Defendants.	97 Civ. 8399 (RWS)	:
<hr/>		:

WRITTEN DIRECT EXAMINATION TESTIMONY OF JORGE ARMENTEROS

1. My name is Jorge Armenteros. I reside at 20C Andover Circle, Princeton, NJ 08540.
2. I am a tobacconist, and I own and manage two cigar stores; one in Princeton, New Jersey, a block from the University, and another in New Hope, Pennsylvania. I provide management services and consult for a third cigar store, in Marietta, Georgia. I opened the Princeton store in September 1995, the New Hope store in November 1996 and the Marietta store in 1997. All three are called "A Little Taste of Cuba." I employ about 12 persons on a regular basis at the Princeton and New Hope locations.
3. I was born in the United States. My parents are of Cuban origin. I graduated from American University with a Bachelor of Science and Bachelor of Arts degree in International Business and Marketing. While in college, I became interested in cigars and spent a great deal of time at tobacconists in the Washington, D.C. area, including Georgetown Tobacco, learning about premium cigars.
4. I am fortunate that of the twenty or so cigar stores which have opened and closed in the Princeton – New Hope region since the mid 1990's, my stores have survived and even thrived. I attribute this to the hard work of my staff, our loyal customer base and my emphasis on quality and "cigar education." I believe it is important to provide the benefit of my expertise to those of our customers who seek information about cigars, particular brands, places of tobacco origin, as well as the differences – both subjective and objective – between the quality of various cigars.
5. I have a particular interest in the manufacturing side of the cigar business, and have visited Cuba, Jamaica, Nicaragua, and Costa Rica several times to enhance my base of knowledge of the industry. Recently, I was invited by Mr. Jose Padron, owner of Padron Cigars, to visit, observe and study the Padron facility in Nicaragua. Mr. Padron is known as one of the highest quality producers of

fine cigar tobaccos in the world. While there, I observed their tobacco farming and cigar making process and learned more about their history and business methodology.

6. While visiting Cuba, I met and became acquainted with Juan Diaz Tenorio, a resident of Havana and a representative of Cubatabaco. I also met Adargelio Garuido, an attorney for Cubatabaco, when he visited New York February 2001 with Mr. Tenorio. I do not have a business or family relationship with either gentlemen, with Cubatabaco or with Habanos S.A.

7. I have also, over the years, taught cigar and tobacco seminars to interested individuals through the “Cuban Cigar University” curriculum I created, as well as in informal settings, such as dinners and cigar and wine tastings, where I have been asked to speak. A great deal of my business is educational in nature. I teach and discuss much of what I have learned over the years from the planting of tobacco seeds and manufacturing techniques, to the taste differences found between various cigars, to cigar related publications and apparatus commonly used in cigar enjoyment.

8. We are full-service tobacconists, meaning that we specialize in premium and super-premium cigars, pipe tobaccos and accessories. At each location, there is a parlor area for people to sit, enjoy their cigars, listen to music, read, peruse daily newspapers and socialize. The Princeton location is generally frequented by highly educated, professional people. Many work in the financial sector. It is not frequented by students. New Hope is primarily a tourist town, and the customers there reflect a broad cross-section of the population. I also conduct a mail order business out of New Hope.

9. I sell many brands of cigars, including General Cigar cigars, such as Macanudo, Partagas, and Cohiba. I also sell the cigars of other manufacturers. I cannot, and do not, sell Cuban cigars, except for the lawful sales of certain Cuban “PRE” embargo cigars.

10. I sold approximately \$1 million + in cigars per year during the peak of the cigar boom in 1997 and 1998, and my gross annual sales today averages \$900,000+.

11. Frequently, people come into my Princeton and New Hope stores looking to buy Cohiba cigars after having purchased Cohiba products at other stores. In their comments to me, it is clear that many thought they had acquired actual Cuban Cohiba cigars at the other stores. Sometimes this misperception would simply come up in conversation. Before I began to carry the General Cigar Cohiba, in 1999 or 2000, I made a practice of asking customers who told me that they had purchased Cohiba cigars at other stores whether they thought that had purchased a Cuban cigar. Most answered “yes.”

12. Some of these people would add, “Yes, it was the Cuban with the red dot.” (The “O” in the name “COHIBA” on General Cigar’s Cohiba is filled in with red, and the General Cigar is often identified in materials as the “red dot” Cohiba). Some who thought they had purchased a Cuban Cohiba cigar did not volunteer that it was a red dot Cohiba that they had acquired, but when I asked questions, they often indicated that they had bought the “red dot.”

13. These discussions indicating that people had bought the “red dot” Cohiba, believing it to be a Cuban cigar, started taking place in 1998. It happened so many times that I cannot reasonably count them. These conversations still occur frequently, even to this day.

14. I also discovered in my conversations that some who thought they had purchased Cuban Cohibas at other stores had actually bought a “yellow and black” Cohiba cigar, which is made in the Dominican Republic by a manufacturer other than General Cigar.

15. The conversations I have described occurred with people who mistakenly thought they had purchased Cuban Cohiba cigars at another store before coming to my stores. In addition, many other

people who were interested in buying General Cigar's Cohiba from my stores have indicated in conversations with me that they believe there to be some sort of affiliation between the General Cigar Cohiba and the Cuban Cohiba. They often ask me whether there is a connection between the Cohiba I am selling and Cuba. I tell them that there is no connection, other than that this product made by General Cigar in the Dominican Republic shares the same name as the popular Cuban variety.

16. I estimate, based on my conversations with customers, that of the people who purchase or discuss purchasing a Cohiba cigar in my Princeton and New Hope stores, 30 percent, perhaps more, feel that there is some connection to the Cuban Cohiba, perhaps through a licensing agreement between the companies, or that there is Cuban tobacco in the cigar, or that the cigar is made by the Cubans elsewhere.

17. In addition to the General Cigar and Cuban Cohiba, I am aware that certain Cohiba cigars with a yellow and black band come from the Dominican Republic. They have the same type of band or packaging as the Cuban Cohiba, the same trade dress. In the past, around 1997 or 1998, we sold these cigars for about a year but stopped when I read in the trade press that General Cigar had won a lawsuit against that manufacturer. Then, after that, a different company offered to sell the yellow and black Cohiba to me but I refused them. In 2001, yet another company regularly called me offering to sell the yellow and black Cohiba, but I refused them as well.

18. Judging from my conversations, a much smaller percentage of the people interested in purchasing Dominican grown Partagas and other brands that share the same names as Cuban brands, feel there is a connection with the counterparts in Cuba. Maybe two to five percent of the people interested in Partagas, Montecristo, Punch, or Hoyo de Monterey, indicate that they wonder if a connection exists with the Cuban cigar of the same name.

19. People have come into my store asking whether we sell Cuban cigars. I believe some of these people know it is not legal to sell Cuban cigars in the United States, but think they are sold by tobacconists anyway. A large percentage of our customer base is not exactly clear of what the United States economic embargo with Cuba means or whether or not Cuban cigars can be legally purchased in this country.

20. My experience from speaking with customers is that relatively few are well-educated in cigars and their origins, or in the international politics that surround the cigar industry for that matter. Some people are even unaware that there is a United States trade embargo relating to Cuba.

21. It is part of my responsibility as a specialty retailer to provide my customers with information relating to the “cost to quality” ratio of the products I sell. The issues relating to “Cohiba Confusion” compels me to illustrate that point on a regular basis. When a customer expresses interest in purchasing a Cohiba cigar at my store, I often note that one should not expect the General Cigar Cohiba cigar to approach the quality level of a Cuban Cohiba cigar. I do so because I do not want my customers to think that they are purchasing a product which is “just as good” as the Cuban Cohiba. If the customer is looking for a cigar experience closer in quality to the Cuban Cohiba, I direct him to alternative brands that I carry, usually at price points similar to the General Cigar Cohiba.

22. Based upon my experiences, the Cuban Cohiba is one of the highest quality cigars, in terms of tobacco, craftsmanship and taste, produced anywhere in the world. It is not unusual for the Cuban Cohiba Esplendido style cigar to fetch up to \$795.00 for a box of 25 in the U.K. The overall quality of this cigar is generally excellent and the purchaser obtains a very high quality product at a relatively high cost. Expensive, but worth the cost to a person who enjoys fine cigars.

23. Not so when a customer purchases a box of General Cigar Cohiba cigars. Neither the tobacco used, nor the craftsmanship employed in manufacturing the cigars, are of extraordinary quality. The taste of the General Cigar Cohiba similarity does not merit the high cost that the consumer pays for the product. For example, the General Cigar “Triangulo” Cohiba cigar retails for approximately \$14.00 to \$18.00 per cigar. A cigar with that price point should provide significantly more to the consumer than only a well known name. Expensive, and not worth the cost when compared to similarly priced cigars that I offer in my stores.

24. This is not to say that the General Cohiba Cigar is a product of poor quality. Rather, that in relation to a “cost to quality” analysis, it does not fare well where compared to similarly priced cigars, and in no way does it compare favorably to the Cuban Cigar of the same name.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
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PARTY DESIGNATIONS*: Petitioner's Designations During Its Trial Period—Yellow or Pink
Respondent's Designations During Its Trial Period—Green
Petitioner's Designations During Its Rebuttal Period—Blue

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony and Appendix of Ralph E. Binder, M.D., dated May 29, 2003**

(Appendices to Written Direct Testimony not highlighted to preserve clarity)

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVUE Nos. 138, 136, 135, 132, 91 and 89.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.

Defendants.

97 Civ. 8399 (RWS)

WRITTEN DIRECT EXAMINATION TESTIMONY OF RALPH E. BINDER, M.D.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.

Defendants.

97 Civ. 8399 (RWS)

DIRECT EXAMINATION
TESTIMONY OF
RALPH E. BINDER, M.D.

1. My name is Ralph Edward Binder, M.D.
2. I reside at 11 Brookridge Road, New Rochelle, New York 10804.
3. I am a physician specializing in pulmonary disease, and I have been in private practice since 1980. I graduated from Princeton University and the Yale Medical School. I then did postgraduate training at the Albert Einstein Medical Center in internal medicine, and then I did specialty training in pulmonary disease at the Boston University Medical Center. For approximately nine years I was active on the voluntary faculty at the Albert Einstein Medical School, and I presently have an affiliation with Columbia University.
4. I have smoked cigars for approximately 13 years. I have largely purchased my cigars from Thompson Cigars, a mail order company in Florida, but I have also purchased and smoked numerous cigars abroad, including Cuban cigars.
5. My two favorite brands of cigar are Cohiba and Partagas.
6. I first smoked a Cohiba cigar while attending a party at a friend's house in 1996 or 1997. At that party, a friend gave me a cigar, which he told me I would really like, and he identified it as a Cuban Cohiba cigar. The cigar was about six inches long and had a label that said "Cohiba" in black letters on an orange background.
7. Since then, I have smoked Cuban Cohiba cigars on many occasions, after purchasing them in other countries, including Ecuador, England and Canada.
8. I have also smoked Cohiba cigars which I purchased through the Thompson Cigar catalog.

9. I first purchased the Thompson Cigar catalog Cohiba cigars based on my perception that they were manufactured in the Dominican Republic by the same company that makes the Cuban Cohiba. My assumption was that the cigars were now made in the Dominican Republic, so that the company could ship them to the United States, and that this was a way around the embargo.
10. I purchased the Thompson Cigar catalog Cohiba cigars because I believed I was buying a cigar made by a company from Cuba that made cigars, and that I was therefore getting a certain quality product from a company with a certain reputation. As I said before, the Cuban Cohiba is one of my favorite cigars.
11. With regard to Partagas, my other favorite cigar, my understanding was that the Partagas company was originally located in Cuba, and now makes the Partagas cigar in the Dominican Republic. This understanding also came from ads I read in the Thompson catalog. I assumed that the same relationship existed with regard to the Cuban Cohiba and the Thompson Cigar catalog Cohiba.
12. I have been shown Plaintiff's Exhibits 355, 356, 357, 358 and 360 (excerpts from the May 2000, Fall 2001, July 11, 2001, July 2001, and September 2000 Thompson Cigar catalogs, attached hereto as Appendix A), and my attention has been drawn to the advertisements for Cohiba cigars. In each instance, these advertisements include the following language:
- When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up -- and the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it.
- I recall reading this language when I ordered Cohiba cigars from the Thompson Cigar catalog, and this description reinforced my belief in the link between the Thompson Cigar catalog Cohibas and the Cuban Cohibas.
13. I now know that there is no apparent corporate link between the Cuban manufacturer of Cohiba cigars and the Thompson Cigar catalog Cohiba cigars. I learned this, to my great surprise, during a visit about three years ago from my nephew. At that time, my nephew had just graduated from college and was briefly working as a paralegal in the office of Rabinowitz, Boudin, Standard, Krinsky & Leiberman. He left their employ quite some time ago and is now in law school. It is my understanding that he has had no further contact with his former employer.

14. During that visit, my nephew saw me smoking a Cohiba and asked me if I knew who actually made the cigar that I was smoking. I told him that a company in Cuba makes them in the Dominican Republic so they can legally ship them to the United States. He then informed me that he thought I was smoking a Cohiba cigar which was made by an American company and that the company had no connection to the Cuban company which manufactures the Cuban Cohiba cigars.
15. After I expressed my genuine surprise at learning this, he told me that he was going to see whether his law firm might want me to testify in this case about my obvious confusion regarding the Cohiba cigars I had been purchasing.
16. I explained to my nephew that I would be reluctant to testify because of the demands of my medical practice, but I subsequently relented and agreed to do so because I believe it is the right thing to do.
17. I do now understand that there is no link at all between the Cuban Cohiba and the Cohiba cigars which I have purchased through the Thompson Cigar catalog. I have continued to purchase and smoke the non-Cuban Cohiba cigars.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix A to Federal Action Plaintiff's Written Direct
Testimony of Ralph E. Binder, M.D., dated May 29, 2003**

APPENDIX A

May 2000 Thompson Cigar Catalog



When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up – and the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it.

Fall 2001 Thompson Cigar Catalog



When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up – and the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it.

July 11, 2001 Thompson Cigar Catalog



When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up – and the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it.

July 2001 Thompson Cigar Catalog



When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up – and the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it.

September 2000 Thompson Cigar Catalog



When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up – and the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it.

EXHIBITS

A Guide to Cigar Smoking Pleasure for Enlightened Ladies and Gentlemen

May 2000

\$2.00

THE GOOD LIFE CATALOG
~1915~
THOMPSON
•&CO., INC.~
TAMPA, FLORIDA



You Get Everything Shown Here!

This has got to be about the best cigar deal imaginable! First there is the humidor. Proudly sporting our own Thompson brand logo, this repository for your prized smokes is replete with expensive features including aromatic Spanish cedar lining, solid cedar dividers, and a state of the art humidification system to keep your supply of puros at their optimum smoking condition. Speaking of the cigars, they are a 25-count supply of our renowned Thompson imported long filler handmades, the very ones that have provided

\$29.95

decades of smoking pleasure for our customers. Not to be forgotten is the handsome brushed metal finish on the windproof lighter that will provide long-lasting service whatever the elements.

This is a combination that if purchased separately would easily retail for \$79, available now at an incredible saving. This is an offer that we can only make available for a limited time. The early birds will definitely be jumping on this one, so if you don't want to be disappointed, act quickly.

Visit our website at:
www.may.thompsoncigar.com

#CZ-925555 Classic Combo \$29.95

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 021187

COHIBA

**THERE ARE MORE FAKE
COHIBAS SOLD IN AMERICA
THAN AUTHENTIC COHIBAS**

When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up - and the rest of the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it. As you might imagine, given the popularity of the Cohiba brand, getting a supply of them is quite difficult. After all, tobaccoists the world over are clamoring for any supply they can procure, legitimate or otherwise. That accounts for the counterfeits. Finally, however, we have been able to obtain an extremely small allotment of this famed cigar. You can be assured that it is the genuine article, but equally assured that its availability will be extremely short term. We are offering these Cohibas on a first-come, first served basis, and we urge our customers to avoid disappointment by placing their orders promptly.

COHIBA - All with Natural Wrappers

CORONA ESP. (6-1/2" x 42)
#CZ-R07905 25 for \$300
#CZ-R07906 5 for \$63

CORONA MINOR (4" x 42)
#CZ-R07935 25 for \$175
#CZ-R07936 5 for \$38

LONSDALE GRANDE (6-1/4" x 47)

#CZ-R07915 25 for \$313
#CZ-R07916 5 for \$65

ROBUSTO FINO (4-3/4" x 47)

#CZ-R07925 25 for \$238
#CZ-R07926 5 for \$50

CHURCHILL (7" x 49)

#CZ-R08755 25 for \$375
#CZ-R08756 5 for \$78

CRYSTAL CORONA (5-1/2" x 42)

#CZ-R08765 20 for \$230
#CZ-R08766 5 for \$60

TRIANGULO (6" x 54)

#CZ-R08775 25 for \$500
#CZ-R08776 5 for \$103

CORONA (5-1/8" x 42)

#CZ-R08415 25 for \$225
#CZ-R08416 5 for \$48

Palma Real Seconds: Only Because That's What Jose Blanco Calls Them

Who are we to look a gift horse in the mouth? If Jose Blanco, the child prodigy of Santiago, Dominican Republic, wants to call these beauties seconds and sell them at a severely marked down price, who are we to argue? We'll just take all he wants to send our way and be happy to pass on the savings to our customers who recognize a bargain when they see one.

These are handmade long filler cigars featuring rich Dominican Olor tobacco with a Connecticut wrapper. That alone is virtually unheard of in the industry. The Connecticut wrapper is so expensive and in such short supply that practically no manufacturer will permit them to be discounted as seconds.

So you get to take advantage of this spectacular savings and get a truly premium Dominican handmade for about one-third the retail price.

And please, don't expect these babies to be around long. Best put your order in now.

PALMA REAL - All with Connecticut Wrappers

#CZ-R07675 CHICA	(5" x 30)	25 for \$39
#CZ-R07645 CHURCHILL	(7" x 46)	25 for \$39
#CZ-R07653 CORONA	(5" x 42)	25 for \$39
#CZ-R11265 PERFECTOS	(4" x 38)	25 for \$39
#CZ-R07685 LONSDALE	(6" x 44)	25 for \$39
#CZ-R07635 ROBUSTO	(5" x 50)	25 for \$39
#CZ-R07625 #2 ROBUSTO	(4-1/2" x 50)	25 for \$39
#CZ-R07665 SHORT PANETELA	(5" x 38)	25 for \$39
#CZ-R07605 PRESIDENTE	(7-1/2" x 50)	25 for \$39

**New
Perfecto
Shape**



THOMPSON & CO.
16

Mon. - Fri.: 7 am - 10 pm E.T.
1-800-237-2559
Sat. - Sun.: 8 am - 7 pm E.T.
www.may.thompsoncigar.com

CONFIDENTIAL:
UNDER PROTECTIVE ORDER
GC 021188



A Guide to Cigar Smoking Pleasure for Ent. Ladies and Genl.
 Fall 2001 \$2.00 www.thompson.com

THE GOOD LIFE CATALOG
 1915
THOMPSON
 & CO., INC.
 TAMPA, FLORIDA

Boutique Sampler **An offer NOT** **to be missed!**

Never before have we seen an assortment of this caliber put together in a sampler package. Each one of these boutique cigars is a top-notch product in its own right, but put them together in the same assortment and the collection is awesome. You will receive one each of the following brands: Toraño Reserve Selecta, Perdomo Reserve, La Gloria Cubana, La Flor Dominicana, Surma D.A.O., and Padron. Here's a golden opportunity to sample the best without having to break the bank to do it.



#DZ-985111 BOUTIQUE SAMPLER IV
 (one each of 8 top-notch brands)
 for only \$29

one each of 8 top-notch brands



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\$10 OFF
 ALL ORDERS OVER
 \$75.00



Like father, like son. The Fuentes, Carlos Senior and Carlito Junior, need no introduction. They personify the "new" fully integrated method of cigar making. From growing to aging to rolling cigars. It's an incessant round of inspections of the total process that goes on 7 days a week, year round. You won't find the Fuentes on the golf course or skiing in Vail. Every waking hour is spent on the farm with the plant or on the factory floor with the cigar rollers. Obviously it's a system that works, otherwise why would Fuente be the most sought after brand in the world, including the Cuban brands. Order yours now.

ARTURO FUENTE			
8-5-8	(6" x 47)	#DZ-N067 Nat. or Mad.	25 for \$100
CHATEAU FUENTE	(4-1/2" x 50)	#DZ-N196 Nat. or Mad.	20 for \$77
CHURCHILL	(7-1/4" x 48)	#DZ-N070 Nat. or Mad.	25 for \$125
DOUBLE CHATEAU	(6-3/4" x 50)	#DZ-R069 Nat. or Mad.	20 for \$102
SEL PRIVADA #1	(6-3/4" x 44)	#DZ-N068 Nat. or Mad.	25 for \$105
CAÑONES	(8-1/2" x 52)	#DZ-R01338 Maduro	20 for \$128
		#DZ-R01335 Natural	20 for \$128
DANTE	(7" x 50)	#DZ-R19715 Natural	25 for \$148
CORONA IMPERIAL		#DZ-R11445 Natural	25 for \$106
	(6-1/2" x 46)	#DZ-R11448 Maduro	25 for \$106

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GUARANTEED AUTHENTIC COHIBAS

*These Cigars Are More Frequently
Counterfeited Than Any Other Premium*

When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up - and the rest of the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it. As you might imagine, given the popularity of the Cohiba brand, getting a supply of them is quite difficult. After all, tobaccoists the world over are clamoring for any supply they can procure, legitimate or otherwise. That accounts for the counterfeits. Finally, however, we have been able to obtain an extremely small allotment of this famed cigar. You can be assured that it is the genuine article, but equally assured that its availability will be extremely short term. We are offering these Cohibas on a first-come, first-served basis, and we urge our customers to avoid disappointment by placing your orders promptly.



COHIBAS - All with Natural Wrappers

CORONA ESP. (6-1/2" x 42)	ROBUSTO FINO (4-3/4" x 47)	TRIANGULO (6" x 54)
#DZ-R07905 25 for \$300	#DZ-R07925 25 for \$238	#DZ-R08775 25 for \$500
#DZ-R07906 5 for \$63	#DZ-R07926 5 for \$50	#DZ-R08776 5 for \$103
CORONA MINOR (4" x 42)	CHURCHILL (7" x 49)	CORONA (5-1/8" x 42)
#DZ-R07935 25 for \$175	#DZ-R08755 25 for \$375	#DZ-R08415 25 for \$225
#DZ-R07936 5 for \$38	#DZ-R08756 5 for \$78	#DZ-R08416 5 for \$48
LONSDALE GRANDE (6-1/2" x 47)	CRYSTAL CORONA (5-1/2" x 42)	
#DZ-R07915 25 for \$313	#DZ-R08765 20 for \$230	
#DZ-R07916 5 for \$65	#DZ-R08766 5 for \$60	



HAVANA HONEY'S Sweetest Smoke this Side of Havana

Handmade with long filler and aged to perfection, Havana Honey's are the ultimate Dominican smoke. Whatever size you choose, you'll experience the light hint of honey aroma and flavor that are perfectly matched to the mild blend of Seco and Olor filler and topped off with a silky Indonesian Sumatra wrapper. This combination makes for a truly new and utterly delicious cigar smoking experience.

**Box of 10
Now Available in
Honey And
Honey Vanilla**

HAVANA HONEY DEL SOL (5-1/2" x 42)
#DZ-R18185 Box of 25 \$89 Now \$65
#DZ-R10756 Box of 10 \$45 Now \$29
#DZ-R14045 (Vanilla)
Box of 25 \$89 Now \$65
#DZ-R14046 (Vanilla)
Box of 10 \$45 Now \$29

HAVANA HONEY RIO (5" x 36)
#DZ-R18205 Box of 25 \$79 Now \$59
#DZ-R10746 Box of 10 \$45 Now \$29
#DZ-R18215 (Vanilla)
Box of 25 \$79 Now \$59
#DZ-R14036 (Vanilla)
Box of 10 \$45 Now \$29

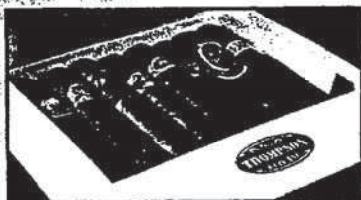
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25

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THE GOOD LIFE CATALOG
 1915
THOMPSON
 & CO., INC.
 TAMPA, FLORIDA



Never before have we seen an assortment of this caliber put together in a sampler package. Each one of these boutique cigars is a top-notch product in its own right, but put them together in the same assortment and the collection is awesome.

Perdomo is indisputably one of Latin America's hottest cigar makers. Oliveros, La Flor Dominicana, La Gloria and La Perla represent Dominica's best. Cupido brings out the best of Nicaragua. Bering box pressed represents the best of Honduras. Then there's the capper, the Gurkha, one of the most expensive brands made, and well worth it. Here's a golden opportunity to sample the best of the best without having to break the bank to do it.

#EB-985800 BOUTIQUE SAMPLER V for \$29

**8 Premium Brand
 Cigars for ONLY
 29**



#EB-R11495
 COHIBA CORONA
 3-PACK (5-1/8" x 42)
 \$29.95

#EB-R12095
 COHIBA SAMPLER
 Leather Case with
 3 COHIBAS \$47

*These Cigars Are More Frequently
 Counterfeited Than Any Other Premium*

COHIBA

When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured. Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it. After all, tobaccoists the world over are clamoring for any supply they can procure, legitimate or otherwise. That accounts for the counterfeits. You can be assured that it is the genuine article. We are offering these Cohibas on a first-come, first-served basis, and we urge our customers to avoid disappointment by placing your orders promptly.

For those occasions when your haven't time to enjoy a larger Cohiba, the hand made long filler Pequeno offers all the flavor and taste of the up market Cohiba in a small cigar.
 #EB-R27155 COHIBA PEQUENOS
 (4-3/4" x 34) 5 tins/30 for \$65



COHIBAS - All with Natural Wrappers

CORONA ESP. (6-1/2" x 42)
 #EB-R07905 25 for \$300
 #EB-R07906 5 for \$63
CORONA MINOR (4" x 42)
 #EB-R07935 25 for \$175
 #EB-R07936 5 for \$38
LONSDALE GRANDE (6-1/2" x 47)
 #EB-R07915 25 for \$313
 #EB-R07916 5 for \$65
ROBUSTO FINO (4-3/4" x 47)
 #EB-R07925 25 for \$238
 #EB-R07926 5 for \$50

CHURCHILL (7" x 49)
 #EB-R08755 25 for \$375
 #EB-R08756 5 for \$78
CRYSTAL CORONA (5-1/2" x 42)
 #EB-R08765 20 for \$230
 #EB-R08766 5 for \$60
TRIANGULO (6" x 54)
 #EB-R08775 25 for \$500
 #EB-R08776 5 for \$103
CORONA (5-1/8" x 42)
 #EB-R08415 25 for \$225
 #EB-R08416 5 for \$48

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July 11 2001

A Guide to Cigar Smoking Pleasure for Enlightened Ladies and Gentlemen

\$2.00

www.thompsoncigar.com



COHIBA®

These Cigars Are More Frequently Counterfeited Than Any Other Premium

For those occasions when you haven't time to enjoy a larger Cohiba, the hand made long filler Pequeño offers all the flavor and taste of the up market Cohiba in a small cigar.

#EA-R27155
COHIBA PEQUENOS
(4-3/4" x 34)
5 tins/30 for \$65.

When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured: Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it. After all, tobaccoists the world over are clamoring for any supply they can procure, legitimate or otherwise. That accounts for the counterfeits. You can be assured that it is the genuine article. We are offering these Cohibas on a first-come, first-served basis, and we urge our customers to avoid disappointment by placing your orders promptly.

COHIBAS - All with Natural Wrappers

CORONA ESP. (6-1/2" x 42)

#EA-R07905 25 for \$300

#EA-R07906 5 for \$63

CORONA MINOR (4" x 42)

#EA-R07935 25 for \$175

#EA-R07936 5 for \$38

LONSDALE GRANDE (6-1/2" x 47)

#EA-R07915 25 for \$313

#EA-R07916 5 for \$65

HOBUSTO FINO (4-3/4" x 47)

#EA-R07925 25 for \$238

#EA-R07926 5 for \$50

CHURCHILL (7" x 49)

#EA-R08755 25 for \$375

#EA-R08756 5 for \$78

CRYSTAL CORONA (5-1/2" x 42)

#EA-R08765 20 for \$230

#EA-R08766 5 for \$60

TRIANGULO (6" x 54)

#EA-R08775 25 for \$500

#EA-R08776 5 for \$103

CORONA (5-1/8" x 42)

#EA-R08415 25 for \$225

#EA-R08416 5 for \$48

#EA-R11495 3-Pack for \$29.95



HAVANA HONEYS Sweetest Smoke this Side of Havana

Havana Honeys are the honey-sweet smokes that are "the bee's knees" when it comes to flavored cigars. Forgive the pun, they do make use of pure honey in the flavoring process, giving them a natural sweetness that flavored cigar smokers find utterly irresistible. They now come in two new sizes; try them and you'll see why they're called "simply the sweetest smoke this side of Havana."

First, there is the beautifully boxed Poco size. In Spanish Poco means little, and at 3-1/2" x 20

gauge, these are small cigars. But though they are little in size, they are really big in honey-rich tobacco flavor, making them the perfect dessert smoke with your Napoleon brandy or Añejo rum. On the other hand, if it's a larger flavored smoke that you're looking for, you won't beat the equally well-presented Bueno, truly a great new Havana Honeys torpedo cigar. The flavor, taste, and mildness of premium Dominican fillers and binders match perfectly with the Indonesian-Sumatra wrapper, and this great combination is finished off with the pure honey that make Havana Honeys famous.

Whether you select the furniture quality box of fifty in the Poco size or the most beautiful box of sixteen torpedoes you've ever seen in the Bueno size, either way you're getting a cigar that is "muy bueno" - Havana Honeys.

HAVANA HONEYS - All with Sumatra Wrappers

POCO (3-1/2" x 20) 50 for \$39.95

#EA-R31725 HONEY or #EA-R32915 VANILLA

BUENO (7" x 36) 16 for \$49

#EA-R31735 HONEY or #EA-R32905 VANILLA



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Long a Favorite Machine Made Combo, Now in a Handmade Version

In the past, our Early Bird Special consisted of bundles of machine made short filler cigars, a significant bargain and quite popular with many of our customers who recognize value. Now, with the advent of easy access to high quality long filler tobaccos and greater availability of hand rollers it becomes possible to offer the new combo at significant savings. Thus, the new version of the Early Bird Special — The Very Early Bird Special.

Those of our customers who get up very early and call us right away to cash in on this deal will receive five bundles of handmade long filler cigars from the Caribbean and Central America. Under different circumstances, these cigars would easily sell for twice the price. Act now because, like all such specials, the supply is limited.

#DG-35045 Very Early Bird Special — 125 Cigars for \$79



Very Early Bird Special
125 Cigars for \$79

HAMILTONS HOUSE

**Fabulous Savings of
Over \$100 per Box
Will Make You
Feel Like a Star**

George Hamilton is one of the few celebrities whose entry into the cigar boom was a success. Perhaps that's because in addition to his good looks, Hamilton is also a savvy cigar aficionado who knows the product. Hamiltons House Selection is made by Tabacalera Tambori, one of Dominica's old line makers, a most respected manufacturer. It's this combination of expertise and the appreciation for a satisfying smoke that gives rise to the success of this cigar. The filler blend of Piloto Cubano Ligero and Seco varietals with the noble Dominican Bezuiki provides a richness rarely matched. When you add the Dominican Olor binder and top it off with the spicy Sumatra wrapper, you have a cigar that makes any smoker sit up and take notice. Complex, spicy, and unique, that is the mark of a Hamiltons House cigar. Now you are in an enviable position as the company is embarking on a re-design of its packaging for their Hamiltons House. We just happen to have the last remaining supply of the current boxes which we have purchased at an unheard of bargain price. While our limited inventory lasts, you can save big. Now's the time to take advantage of this fabulous offer and sophisticated cigar.



All Sizes
\$39

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COHIBA

These Cigars Are More Frequently Counterfeited Than Any Other Premium

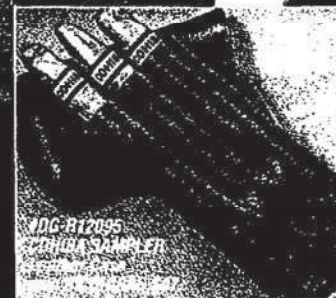
When you establish a reputation second to none, you inspire those who would like to emulate you. And when it comes to reputations, none can match that of Cohiba. In fact, there are only two places in the world where this brand is legitimately manufactured. Castro's Cuba and in the Diaz y Cia subsidiary of General Cigar Co. in Santiago, Dominican Republic. And when Diaz y Cia proclaims Cohiba as "A world beyond other cigars," it's not an idle boast. They back it up — and the rest of the cigar world knows it. This is one of those rare products about which little needs to be said. It is a cigar whose reputation alone sells it. As you might imagine, given the popularity of the Cohiba brand, getting a supply of them is quite difficult. After all, tobaccoists the world over are clamoring for any supply they can procure, legitimate or otherwise. That accounts for the counterfeits. Finally, however, we have been able to obtain an extremely small allotment of this famed cigar. You can be assured that it is the genuine article, but equally assured that its availability will be extremely short term. We are offering these Cohibas on a first-come, first-served basis, and we urge our customers to avoid disappointment by placing your orders promptly.

COHIBAS — All with Natural Wrappers

CORONA ESP. (6-1/2" x 42)	CHURCHILL (7" x 49)
#DG-R07905 25 for \$300	#DG-R08755 25 for \$375
#DG-R07906 5 for \$63	#DG-R08756 5 for \$78
CORONA MINOR (4" x 42)	CRYSTAL CORONA (5-1/2" x 42)
#DG-R07935 25 for \$175	#DG-R08765 20 for \$230
#DG-R07936 5 for \$38	#DG-R08766 5 for \$50
LONSDALE GRANDE (6-1/2" x 47)	TRIANGULO (6" x 54)
#DG-R07915 25 for \$313	#DG-R08775 25 for \$500
#DG-R07916 5 for \$65	#DG-R08776 5 for \$103
ROBUSTO FINO (4-3/4" x 47)	CORONA (5-1/8" x 42)
#DG-R07925 25 for \$238	#DG-R08415 25 for \$225
#DG-R07926 5 for \$50	#DG-R08416 5 for \$48



#DG-R11495
COHIBA CORONA
3-PACK (5-1/8" x 42)
\$29.95



#DG-R12095
COHIBA SAMPLER
\$29.95

PREDATOR

"The Reports of My Demise Were Greatly Exaggerated." — Predator

Oops, in our previous catalog, we reported on the passing of Predator. Not so! Encouraged by the continued interest in this high-quality smoke, the manufacturer continues to make it available. No longer produced in the quantity that promised to make it a major player during the cigar boom, still Predator attracts a small but loyal following to its high quality Honduran filler, Nicaraguan binder, and Ecuador-Connecticut wrapper. These smokers are the cognoscenti who recognize that the manufacturer's commitment to multi-year aging of Predator produces a mildness and smokability rarely found in a cigar at such a bargain price. These connoisseurs recognize a sleeper when they see one. After these years of "sleeping" in its cedar lined humidification rooms, Predator is aged to the point where it is even more ready to delight your palate with the flavor you're looking for.



PREDATOR — All with Natural Wrappers

#DG-R18705 CHURCHILL, (7" x 50), 25 for \$120	\$29
#DG-R18715 TORPEDO, (6-1/2" x 54), 25 for \$115	\$29
#DG-R19725 PRESIDENTE, (8" x 52), 25 for \$130	\$29
#DG-R19735 TORO, (6" x 50), 25 for \$115	\$29

MACANUDO

TRULY MILD, TRULY MADURO



Macanudo, a name synonymous with consistency and flavor, introduces the mildest wrapper available in a Maduro, the Connecticut Valley broadleaf. This is the tobacco known for generations as the wrapper that produces the long, white ash. But more importantly, the taste imparted to the cigar is supremely mild. If you've been looking for a Maduro that produces a true Maduro richness, the Macanudo Maduro, handmade in Santiago, Dominican Republic, is the end to your quest.

MACANUDO — All with Maduro Wrappers

#DG-N09488 BARON DE ROTHSCHILD (6-1/2" x 42), 25 for \$130	\$29
#DG-R18968 DIPLOMAT (4-1/2" x 44), 25 for \$125	\$29
#DG-N09188 DUKE OF DEVON (5-1/2" x 42), 25 for \$125	\$29
#DG-N37088 HYDE PARK (5-1/2" x 49), 25 for \$134	\$29

Also available in 10-Packs.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----	X	

PARTY DESIGNATIONS*: Petitioner's Designations During Its Trial Period—Yellow or Pink
Respondent's Designations During Its Trial Period—Green
Petitioner's Designations During Its Rebuttal Period—Blue

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony and Appendix of Hilda Diaz, dated June 4, 2003**

(Appendices to Written Direct Testimony not highlighted to preserve clarity)

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

WRITTEN DIRECT EXAMINATION TESTIMONY OF HILDA DIAZ

1. My name is Hilda Diaz. My office address is 725 River Road, Edgewater, New Jersey.

2. I was asked by Rabinowitz, Boudin, Standard, Krinsky and Lieberman, P.C., the attorneys representing Empresa Cubana del Tabaco, to prepare a report estimating the number of lawful visits by United States persons to Cuba from 1979 through and including 1994. I attach my report, "Lawful Visits by United States Persons to Cuba from 1979 to 1994," to this written testimony and I adopt this report as my testimony. I am told that my Report has been marked PX 319.

3. From 1986 until its recent merger into Marazul Charters, Inc., I was the President of Marazul Tours, Inc., a travel agency specializing in travel to Cuba. I am the president of the merged company, which includes Marazul Tour's travel agency business and Marazul Charter's charter operations to Cuba. I am a principal of the merged company, and was a principal of both Marazul Tours, Inc. and Marazul Charters, Inc.

4. Marazul Charters, Inc. has three offices in New Jersey, in Weehawken, Edgewater and North Bergen. It has four offices in Miami, Florida and one office in Hialeah, Florida.

5. Marazul Tours (now Marazul Charters, Inc.) was established in 1979, and for many years has been the leading travel agency in United States-Cuba travel, with more customers than any other travel agency. Since 1979, it has arranged travel to Cuba and has made land arrangements (hotels, ground transportation, etc.) in Cuba for its clients. It has always utilized all of the various air services available for travel to Cuba, not just Marazul Charters. It has serviced both the Cuban-American community and other United States persons wishing to travel legally to Cuba.

6. From 1986 until 1995, Marazul Charters operated regular charter flights between the United States and Cuba, and was one of the two, later three, companies providing air service between the United States and Cuba during that period. For much of that time, Marazul Charters flew two flights per week from Miami to Havana. The United States government has only permitted charter flights between the United States and Cuba; there has been no regular air service between the United States and Cuba since the early 1960's. Marazul Charters, Inc. currently provides charter service to Cuba, with a weekly flight from JFK, two regularly scheduled charter flights per week from Miami and many special charters.

7. Marazul Charters, Inc., and, before their merger, Marazul Tours, Inc. and Marazul Charters, Inc., have operated under license from the United States Treasury Department's Office of Foreign Assets Control, which licenses the provision of travel and charter services with respect to travel to Cuba.

8. I began working for Marazul Tours in 1981, and have worked continuously for that company, and now for the merged company, since then. From 1981 to 1986, I served as Marazul Tour's controller, doing accounting work and supervising accounting personnel. In 1986, I became Marazul Tours, Inc.'s president and a principal in the company.

9. Marazul Charter, Inc. became active in 1985 and I served as its controller from that time until I became president of the merged company in 2002. In addition, during those years, I assumed the management of Marazul Charters from time to time. I became a principal in Marazul Charters in 1986.

10. I was born in Cuba but moved to Miami when I was 14, in May 1961, and was joined by my family a year later. I graduated high school in Miami, Florida in 1965. I took

courses in Spanish literature at Hunter College in New York from 1967 to 1971, and took bookkeeping and accounting courses at Long Island University, Brooklyn Campus, from 1978 to 1980. From 1967 to 1981, I worked in the accounting departments of two stockbroker firms, Foster & Adams, and Wertheim & Co., in New York.

11. As set out in my report, it is my opinion that there were no less than approximately 521,500 lawful visits by United States persons to Cuba between 1979 and 1994, and that there was no less than approximately 484,000 lawful visits by United States persons to Cuba between 1979 and 1992.

12. As I explain in my report, I formed this opinion by using the declaration of Assistant Secretary of State for Inter-American Affairs, Thomas O. Enders, in *Regan v. Wald*, a Supreme Court case concerning the U.S. restrictions on travel to Cuba, as to the number of United States visits to Cuba for 1979, 1980, and from January through April of 1982; Mr. Enders' statement in the same declaration that travel by United States persons increased from May 1982 to June 1983; the United States Treasury Department's Press Release in April 1982 reporting the number of visits to Cuba for a twelve-month period; and the testimony of Assistant Secretary of State for Inter-American Affairs Watson before Congress in 1993 as to United States travel to Cuba in 1992. I then estimated the volume of United States visits to Cuba for the periods for which I did not have United States government figures based on my contemporaneous observation and analysis of the fluctuation in lawful travel to Cuba from the United States.

13. In his Declaration, Mr. Enders, the Assistant Secretary of State for Inter-American Affairs, stated that "Cuban data shows that in 1979 there were 159,440 tourist visits, earning

Cuba 71.5 million pesos. This was cut in half, to 79,518, earning 31.6 million pesos in 1980 by unilateral Cuban action because most of those traveling were Cuban-American citizens and residents of the United States, and the major influx of affluent, free former residents was causing social instability among the Cuban populace.” I believed that, since Mr. Enders was apparently accepting the Cuban data, it was reasonable for me to utilize these figures for my report. Additionally, I understand Mr. Enders to be saying that Cuban-Americans accounted for “most” of those traveling, and so I believed that it was reasonable to use the cited figures in arriving at an approximation of the volume of United States visits.

14. The United States Treasury Department press release I used was issued in April 1982. I know this because it was attached to the affidavit of Harold Mayerson, dated June 12, 1982, in *Regan v. Wald*. In his affidavit, Mr. Mayerson gives the date of the press release. Mr. Mayerson was one of the attorneys for the plaintiffs in *Regan v. Wald*, and, at the time, was also an attorney for Marazul Tours, Inc. I am told that his affidavit has been designated as PX 225 in this case. In my report, at page 2, there is a typographic error that says that the press release refers to travel as of “April 1992,” but, as the context of the report shows, I meant April 1982.

15. My opinion is as to lawful travel only. In 1977, President Carter relaxed the United States government regulation of travel to Cuba by providing a “general license” that permitted all United States persons who visited Cuba to pay for their travel expenditures. However, since May 1982, the United States has substantially curtailed travel to Cuba by allowing payment of travel expenses only in connection with certain types of travel. Over the years since May 1982, the United States has sometimes expanded, and sometimes tightened, the categories of permitted travel. In addition to limiting the types of permitted travel, the United States government has required persons to obtain “specific licenses” from the United States

Treasury Department's Office of Foreign Assets Control for certain of the permitted categories of travel. There have been changes over the years as to which categories of permitted travel require a "specific license" and which can utilize a "general license."

16. I testified at trial in another lawsuit in federal court in New York, involving the rum "Havana Club," on the volume of United States travel to Cuba, and also testified at a deposition and gave a declaration in that case on the same subject. I testified in that case at the request of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, PC.

17. Rabinowitz, Boudin, Standard, Krinsky & Lieberman, PC. represented Marazul Tours, Inc. for many years, along with others, and it is one of the law firms that now represents Marazul Charters, Inc. I have not received any compensation in connection with this case, or in connection with the Havana Club case.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----	X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix to Federal Action Plaintiff's Written Direct
Testimony of Hilda Diaz, dated June 4, 2003**

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EMPRESA CUBANA DEL TABACO d.b.a.	:	
CUBATABACO,	:	
	:	
Plaintiff,	:	
	:	97 Civ. 8399 (RWS)
- against -	:	
	:	
CULBRO CORPORATION, and GENERAL	:	
CIGAR CO., INC.	:	
	:	
Defendants.	:	

**REPORT ON NUMBER OF LAWFUL VISITS BY UNITED STATES PERSONS
TO CUBA FROM 1979-1994**

by
Hilda Diaz

January 28, 2002

**REPORT ON NUMBER OF LAWFUL VISITS BY UNITED STATES PERSONS
TO CUBA FROM 1979-1994**

by
Hilda Diaz

I have been informed by plaintiff's counsel that Empresa Cubana del Tabaco, d.b.a. Cubatabaco, a Cuban entity has brought an action in the United States District Court for the Southern District of New York against Culbro Corporation and General Cigar Co., Inc. to enjoin the defendants' continued use of the trademark COHIBA for cigars in the United States, and for other relief. This report, estimating the number of visits by United States persons who have traveled to Cuba legally from 1979, through and including, 1994, was requested by Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., attorneys for plaintiff, Empresa Cubana del Tabaco d.b.a. Cubatabaco. I am not being compensated for preparation of this report or for providing testimony in this action.

Since 1986, I have been president of the President of Marazul Tours, Inc., a travel agency specializing in travel to Cuba. I also served as an accountant for Marazul Tours, Inc. from 1981 to 1986. I also am a principal of Marazul Charters, Inc., an air charter company which, for many years, was one of the three charter companies providing air service between Miami and Havana, Cuba. From time to time, I have assumed the management of Marazul Charters as well as Marazul Tours. Both Marazul Tours and Marazul Charters operate under licenses issued by the United States Treasury Department's Office of Foreign Assets.

In addition to my 20 years experience in the Cuban travel industry with Marazul, my educational and professional background is as follows:

Education

- Graduated High School, Miami, Florida 1965
- Hunter College, New York City 1967-1971
(part-time courses in Spanish literature)
- Long Island University, Brooklyn Campus 1978-1980
(accounting courses, two semesters)

Professional

- Fosters & Adans, Accountant, NY, NY 1967-1972
- Wertheim & Co., Accountant, NY, NY 1972-1981

Marazul Tours was established in 1979 and for a number of years has been the leading travel agency in United States-Cuba travel, with more customers than any other single agency. Marazul Tours has serviced both the Cuban-American community and other persons wishing to travel to Cuba. Since 1979, Marazul Tours has arranged travel to Cuba on the various air services available for travel from the United States to Cuba and has made land

arrangements (hotels, ground transportation, etc.) in Cuba for its clients. For a number of years, Marazul Tours had one office in New York City and one in Coral Gables, Florida. Marazul Charters, Inc. has had several offices in Miami for a number of years. Currently, there are three Marazul Charters, Inc. offices located around the Miami area. We closed the Marazul Tours branch from Miami back in 1995 and we relocated the New York City office to Weehawken, NJ.

From June 1986 until 1995, Marazul Charters operated regular flights between the United States and Cuba and was one of the two, later three, companies providing air service between the United States and Cuba. For much of that time, Marazul Charters flew two flights per week from Miami to Havana of aircraft with passenger capacity of well over 150 passengers.

As part of my responsibilities for Marazul Tours, I have traveled to Cuba approximately up to once per month, and sometimes more frequently up until February 1996. Until direct Miami-Havana flights were suspended in February 1996, I routinely used each of the three charter companies which provided direct United States-Cuba air service. Since February 1996, I, along with other United States visitors, have traveled to and from Cuba via The Bahamas and Mexico. From February 1996 to 1999, I traveled to Cuba from approximately four times a year.

It is my opinion that there were no less than approximately 521,500 lawful visits by United States persons were made to Cuba from 1979 through 1994. I have based my opinion of the approximate figure of 521,500 lawful visits by United States persons traveling to Cuba since 1979 on the following data:

1. The then Assistant Secretary of State for Inter-American Affairs Thomas Enders submitted an affidavit in 1983 in *Regan v. Wald*, 468 U.S. 222 (1984) (a Supreme Court case involving the constitutional right to travel to Cuba), stating that in 1979, there were 159,440 "tourist visits" by United States persons to Cuba and, in 1980, that there were 79,518 visits; "most of those traveling were Cuban-American citizens and residents of the United States" in 1980. Joint Appendix, *Regan v. Wald*, p. 176 (attached as Appendix A). A United States Treasury Department News Release, reproduced in Joint Appendix, *Regan v. Wald*, p. 26, (attached as Appendix B), stated that as of April 1992, the most recent twelve-month statistics showed that 38,000 "people visited Cuba from the United States"; Assistant Secretary Enders stated in his affidavit that travel to Cuba had increased rather than diminished from May 1982 to June 1983. The discrepancy in numbers of visits by United States persons lawfully visiting Cuba in 1979 and 1980, on the one hand, and 1983, on the other hand, may be partly due to the fact that in 1977, President Carter relaxed the travel ban on United States persons lawfully visiting Cuba by enacting an

exemption to the Cuban embargo that allowed for a general license permitting all United States persons who visited Cuba to pay for their travel expenditures. Then, in May 1982, the administration under President Reagan curtailed the ability of U.S. citizens to travel to Cuba by enacting regulations that only allowed for specific licensed visits in connection with certain types of travel.

My own contemporaneous observations and analysis of travel to Cuba, undertaken on account of my involvement in the travel industry, lead me to the conclusion that 1981 was a period of transition from the 1980 volume to that of 1982 and 1983. For ease of calculation, however, I have used the lower 1982 figure for the year 1981 and 1983, that is, 38,000. The result is that it can be safely concluded that, in my opinion, between 1979 and 1983, there was a total of at least 352,958 lawful visits by United States persons to Cuba.

2. It is my opinion, based upon my observation and analysis of travel to Cuba undertaken on account of my involvement in the travel industry, that the volume of travel to Cuba remained constant from 1984 to July 1993, except for a ten-month period of time between 1985 and 1986 where there was a 30 percent decline in travel to Cuba by Cuba-Americans due to Cuban travel regulations. Alexander Watson, Assistant Secretary of State for Inter-American Affairs, testified before Congress that "[o]ver 15,000 American citizens and residents traveled legally to Cuba" in 1992. House Comm. on Foreign Affairs, Joint Hearings on U.S. Policy and The Future of Cuba: The Cuban Democracy Act and U.S. Travel to Cuba, Nov. 18, 1993, p. 19 (attached as Appendix C). This figure accords with my own estimation of the extent of travelers to Cuba. Therefore, in my opinion, there were approximately another 138,750 lawful visits by United States persons to Cuba from 1984 to July 1993.

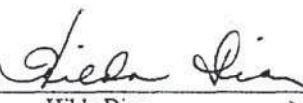
3. In July 1993, Cuba relaxed certain restrictions and conditions on travel by Cuban-Americans to Cuba, resulting in a sharp increase in the number of persons traveling. Based upon my involvement in the travel industry, the number of visits of United States persons traveling to Cuba legally doubled for the balance of 1993 and 1994, so it may be concluded that there were another 30,000 lawful visits by United States persons during that period.

Therefore, in my opinion there were no less than approximately 521,500 lawful visits by United States persons to Cuba between 1979 and 1994. Moreover, there were no less than approximately 484,000 visits by United States persons to Cuba between 1979 and 1992. The fluctuations in the volume of travel noted above were due to modifications at various times in the travel restrictions imposed by the United States and Cuban governments.

In addition, I estimate that the above figures are substantially understated. Even when, prior to February

1996, there were direct flights from Miami to Havana, many United States persons traveled lawfully to Cuba through third countries. Visitors to Cuba have traveled via Mexico, Canada, and The Bahamas. I know of no reliable way of calculating their volume, and the United States government statistics used in the above calculations do not encompass that travel.

Moreover, these figures do not include any visitors to Cuba since February 1996, when the United States suspended direct flights from Miami to Cuba which have since resumed in 1997. When direct flights were suspended, again visitors traveled to Cuba via third countries. While numerous persons travel in this way to Cuba, I know of no reliable way of calculating their volume.

By: 
Hilda Diaz

Date: 11/29/01

In the Supreme Court of the United States

OCTOBER TERM, 1983

DONALD REGAN, SECRETARY OF THE TREASURY, ET AL.

v.

RUTH WALD, ET AL.

**ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIRST CIRCUIT**

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED SEPTEMBER 14, 1983

CERTIORARI GRANTED NOVEMBER 28, 1983

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 83-1695

RUTH WALD, ET AL., PLAINTIFFS, APPELLANTS

v.

DONALD REGAN, ET AL., DEFENDANT, APPELLEES

DECLARATION OF THOMAS O. ENDERS

Thomas O. Enders, under penalty of perjury, declares and says as follows:

1. I am a career Foreign Service Officer in the Foreign Service of the United States. In my present assignment I am the Assistant Secretary of State for Inter-American Affairs in the Department of State. I have held that office since June 23, 1981.

2. As Assistant Secretary of State for Inter-American Affairs, I am familiar with United States policy in Latin America and the Caribbean. I am responsible for implementation of U.S. foreign policy in the region, under the direction of the President and the Secretary of State.

3. I make this declaration, which is based upon information known and made available to me in the performance of my official duties, in order to explain the foreign policy interests which continue to be involved and to show the injury to our foreign policy interests that would result if an injunction against enforcement of certain regulations concerning criteria for licensing transactions related to travel to Cuba were to be upheld.

4. I have read the Declaration of Myles R.R. Frechette, filed with United States District Court for the District of

Massachusetts in 1982, in connection with Civil Action File No. 182-1690-T (see JA 102-104). The Declaration of Mr. Frechette, who was then Director of the Office of Cuban Affairs in the Department of State's Bureau of Inter-American Affairs, set forth the reasons why the regulations at issue were adopted to serve important foreign policy interests of the United States with respect to Cuba. I endorse the statements made by Mr. Frechette in that Declaration and believe that they continue to represent an accurate statement of United States policy and the facts underlying that policy.

5. It is the longstanding policy of the United States and that of President Reagan to promote the development of democratic government in Latin America and to contribute to the economic and social well-being of the region through the encouragement of free institutions. It has been and remains a principal objective of the Government of Cuba to stimulate and support the overthrow of non-Communist governments in the Western Hemisphere and to replace them with Marxist-Leninist regimes acceptable to Cuba. Cuban success would be contrary to the national interests of the United States. In view of the intensity of the conflict which these Cuban efforts have helped to generate in Central America and elsewhere in the region, this Administration has maintained and strengthened measures to suspend trade with Cuba which are continued pursuant to the Resolution adopted by the Sixteenth Meeting of Consultation of Ministers of Foreign Affairs, acting under the Inter-American Treaty of Reciprocal Assistance (ITAR), the "Rio Treaty", on July 29, 1975.

6. Since 1960 it has been a major objective of United States foreign policy with respect to Cuba to deny the Cuban Government the financial means for conducting a foreign policy of violence against friendly third countries, dedicated to undermining the security interests of the United States. For that reason the United States Government adopted extensive restrictions on trade with Cuba,

including transactions related to travel, which was consistent with Resolution VIII of the Eighth Meeting of Consultation of Ministers of Foreign Affairs acting under the ITAR, on January 31, 1962, and with Resolution I of the Ninth Meeting of Consultation of Ministers of Foreign Affairs, July 22, 1964, basing its measures on the authority of the Trading with the Enemy Act. The criteria for licensing transactions related to travel to Cuba then adopted were subsequently relaxed in 1977 as part of efforts by the Carter Administration to improve bilateral relations with Cuba. Travel, however, remained within the scope of general and specific licensing authorities exercised under the Trading with the Enemy Act. The criteria for issuing licenses for transactions related to travel were tightened again in 1982 because the conduct of Cuba had resulted in a deterioration, rather than an improvement, in bilateral relations, and because Cuba had vigorously renewed efforts to overthrow non-Communist governments of the region by the use of subversion and violence.

7. The objective of the tightening in May 1982 of licensing criteria on transactions related to tourist and general business travel to Cuba was not to prevent travel. Rather its purpose was to deny Cuba the convertible currency income which would otherwise could have been generated by development of tourism from the U.S. on a commercial scale, income which would then have become available for the advancement of Cuban policy contrary to the national interests of the United States.

8. The development of the tourist industry in Cuba was undergoing major expansion during 1981 and early 1982, and was intended to provide Cuba with a growing and important revenue flow which could in a relatively short period of time have become the second most important source of convertible currency for Cuba. The U.S. Government had become aware of Cuban plans greatly to expand tourism from this country. The Director for U.S. Affairs of the Cuban National and Inter-

national Tourist Enterprise, (CUBATUR) had requested visas for December, 1981 and January, 1982 visits to New York and Miami to meet 30-40 American travel agents for the purpose of promoting tourism to Cuba. The visa was denied because the purpose of the travel, to promote trade in tourist services, was contrary to U.S. policy and therefore prejudicial to the national interest. The U.S. Government was also aware of Cuban plans to host a Conference of International Travel Agents, which in fact was held in Havana June 8-12, 1982, attracting 670 delegates, representing 195 tour agencies, from 23 countries including the United States. The American Society of Travel agents had also inquired on behalf of Cuba whether Cuba could mount an exhibition promoting travel to Cuba at the Society's 52nd World Travel Congress in Miami, October 10-16, 1982. Following the relaxation of licensing criteria on travel-related financial transactions in 1977, Cuba began to develop plans for exploiting the U.S. tourist market as a significant source of convertible currency. One objective was development of a tourism complex on Cayo Largo and possibly on two other cays with fresh water available. Cayo Largo was to be a "free port", isolated from the rest of Cuba and staffed by selected personnel. There were to be gambling casinos and special attractions not available elsewhere in the country. In all, the 1981-85 five year plan called for inaugurating 22 new hotels with 2,800 rooms and recovering or improving an additional 6,900 rooms. Legislative Decree 50, an exceptional measure for a communist country, authorized Joint Ventures with 49 percent, or even more, foreign ownership. It was intended to attract foreign hard currency investments primarily in tourist-related infrastructure, and there were to be promotional campaigns in primary markets, especially the U.S.

9. There were other indications of Cuba's intention to promote tourism as a major industry. The primary source of this projected increase was to have been the United States. The restrictions on financial transactions related

to tourism and general business travel in May 1982 were intended to forestall this development and to prevent Cuba from developing a major source of foreign currency.

10. While tourism has not been an important earner of foreign exchange for the Castro Government in Cuba, tourism was a significant revenue source prior to 1958 and could be again. According to hearings before the Subcommittee on Interstate and Foreign Commerce, House Interior Committee, March 28, 29, 30, and April 11, 12, 1961, in 1958 Cuba earned \$37 million from travellers from the United States alone, equal to about two percent of its gross national product and almost four percent of foreign exchange earnings. It then had the highest tourism income of any country in the Caribbean. The tourist trade was Cuba's second largest industry, and travel from the United States was easily the largest component of that industry. The proximity of the United States along with the size and affluence of its population makes it by far the key market for Cuba. This was recognized by the U.S. Government in 1963, and the tourist trade was accordingly suspended in connection with the imposition of other economic restrictions.

11. Cuba enjoys a significant advantage over free world countries competing with it for the U.S. tourist market. Cuba, itself heavily subsidized by the USSR, can subsidize tourism, offering low prices in the interest of attracting convertible currency. This would enable Cuba to compete to its advantage on unfair terms with other countries in the region for the U.S. tourist market. Convertible currency is the focus of U.S. economic measures because it is susceptible to U.S. efforts and because, while only 20 percent of Cuba's foreign exchange earnings are in hard currencies, the importance of these earnings is far in excess of their nominal value, because Cuba uses convertible currencies to buy goods critical to the efficient operation of its economy, such as machinery and transport equipment for key industries. Premier Castro specifically confirmed this analysis in a speech on July 26, 1982.

12. Cuban data show that in 1979 there were 159,440 tourist visits, earning Cuba 71.5 million pesos. This was cut in half, to 79,518 earning 31.6 million pesos in 1980 by unilateral Cuban action because most of those traveling were Cuban-American citizens and residents of the United States, and the major influx of affluent, free former residents was causing social instability among the Cuban populace. Anxious, however, to earn tourist dollars, Cuba sought to devise a strategy which would discriminate against politically unacceptable citizens and residents of this country who were of Cuban origin in favor of politically acceptable tourists. In effect, Cuba sought to discriminate against a class of Americans because of their national origin, yet earn income from other Americans.

13. As noted above, the purpose of tightening licensing criteria in May, 1982 was not to prevent travel to Cuba. It was recognized that certain persons would have legitimate need to expend funds in connection with such travel and such persons, therefore, remained under general license. The largest such group consisted of persons travelling for the purpose of family reunification; Government officials, journalists, sports and artistic travellers and researchers were others authorized under general license to expend funds. A further refinement, based on the objective of denying income to Cuba, authorized under general license all travel fully hosted by the Cuban Government or other Cubans.

14. Travel statistics show that imposition of these measures has not prevented travel to Cuba, which in fact has increased rather than diminished since their effective date of May 15, 1982. However, the pattern indicates that tourism as a component of travel was reduced. There was about an 18 percent increase in tourist travel to Cuba during January-March, 1982 compared to the same period of 1981. This was prior to the change of licensing criteria. However, the last quarter of 1982, October through December, shows a drop of about 45 percent compared to the same quarter in 1981. The measures there-

fore appear to have denied to the Cuban Government the increased revenues which it would otherwise have earned had the controls had not been enacted. Cuban efforts to redevelop tourism as a major industry, have largely been thwarted and the availability of convertible currency needed to buttress Cuba's foreign policy has thereby been reduced.

15. Since publication of the 1st Circuit decision of May 23, 1983, the Cuban government appears to have re-initiated efforts to promote U.S. tourism to Cuba. One indication was a May 27, 1983 approach to this Department by Mexicana de Aviacion expressing interest in providing charter aircraft to HAVANATUR, a Cuban government agency, for weekly tours from Miami to Havana. Another was the expression by a Texas operator of tours to Cuba, to the Treasury Department, of the intent to begin again offering tours in cooperation with Cuban authorities.

16. If the injunction against application of the Department of the Treasury regulations is permitted to stand, serious damage could result for U.S. foreign policy interests in the Caribbean and Central America. The resultant flow of convertible currency would assist Cuba in the conduct of its foreign policy at a time when Cuba is aggressively engaged in attempting the overthrow of democratic governments in the region which are friendly to the United States.

17. Accordingly, the regulations serve important foreign policy interests of the United States. An injunction against their application would substantially harm these interests, rendering encouragement to the Cuban Government and contributing to its foreign policy objectives.

I state under penalty of perjury that the foregoing is true and correct.

/s/ Thomas O. Enders
THOMAS O. ENDERS

Executed on June 3, 1983
Washington, D.C.

In the Supreme Court of the United States

OCTOBER TERM, 1983

DONALD REGAN, SECRETARY OF THE TREASURY, ET AL.

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CERTIORARI GRANTED NOVEMBER 28, 1983

EXHIBIT B

TREASURY NEWS
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*U.S. RESTRICTS TRANSACTIONS RELATING TO
TRAVEL TO CUBA*

The Department of Treasury today announced new restrictions on travel-related transactions with Cuba. The effect will be to eliminate tourist and business travel to that country.

The restrictions will take effect on May 15.

John M. Walker, Jr., Assistant Secretary of the Treasury for Enforcement and Operations said: "Today's actions are an important part of this government's policy of tightening the current trade and financial embargo against Cuba and are designed to reduce Cuba's hard currency earnings from travel by persons subject to the jurisdiction of the United States."

The changes remove the general authorization for transactions connected with travel to Cuba and limit such authorization to three principal categories of travel: Official travel, travel by news media personnel and researchers, and humanitarian travel for purposes of family reunification with close relatives in Cuba.

Transactions relating to general tourist and business travel to Cuba are no longer authorized. However, Treasury authorization through specific licenses may be obtained in appropriate cases for persons wishing to travel to Cuba for humanitarian reasons other than family reunification or for purposes of participation in public performances or exhibitions.

The most recent twelve-month statistics indicate that approximately 38,000 people visited Cuba from the United States, of which approximately 40% travelled for purposes other than family reunification.

The current program restricting trade and financial transactions with Cuba dates back to 1963. Since then, all such transactions have been regulated by the Treasury Department's Office of Foreign Assets Control. Any transaction with Cuba by a U.S. company or individual must be authorized by a general or specific license from that Office.

U.S. POLICY AND THE FUTURE OF CUBA: THE
CUBAN DEMOCRACY ACT AND U.S. TRAVEL
TO CUBA

JOINT HEARING

BEFORE THE

SUBCOMMITTEES ON
ECONOMIC POLICY, TRADE, AND ENVIRONMENT;
WESTERN HEMISPHERE AFFAIRS;

AND

INTERNATIONAL OPERATIONS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

NOVEMBER 18, 1993

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STATEMENT OF THE HON. ALEXANDER WATSON, ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS, DEPARTMENT OF STATE

Mr. WATSON. Thank you very much, Mr. Chairman.

Thank you very much for this opportunity to discuss recent developments in Cuba, U.S.-Cuban policy and the impact of the Cuban Democracy Act of 1992, although I must say there is nothing I could say about the situation in Cuba which would be more compelling than the testimony we have just heard by Congressman Lantos.

Let me state at the outset, that President Clinton's policy toward Cuba is to maintain our economic embargo until there is true democratic reform and respect for human rights, while reaching out to the Cuban people to alleviate the distress that we have heard so much about. He does not intend to deviate from this policy.

Cuba today is confronting the most serious economic crisis in its history. Remember, that in the 1950's, Cuba had a per capita income among the very highest in Latin America. Today it is among the very lowest. Foreign trade has fallen by 75 percent. The factories are closing, the sugar harvest was the smallest in 30 years, rationing has never been tighter; as Congressman Lantos said, milk is only available to children under 7, and Cubans are authorized but one shirt, one pair of shoes, and one pair of pants or a skirt per year.

These facts should come as no surprise. They are the results of the failures of Cuba's command economy. Command economies have failed everywhere they have been tried. In the face of this economic disaster, the Cuban Government has made some grudging modifications, but they have been too little and too late.

The government's first priority is clear, to maintain control of the Cuban people. Individual private enterprise, which was abolished in 1968, is again permissible, but with all kinds of restrictions that make it virtually meaningless for the average Cuban. Cuba touts its high-priority tourism and biotechnology industries in which it has invested so much hard currency resources, but these industries simply cannot succeed in resolving Cuba's pressing economic needs, mired as they are in centralized inefficiency.

Cuba maintains an enormous and costly military security apparatus. As Congressman Menendez mentioned, it is the third largest in Latin America after only Brazil and Mexico, even though it has been reduced in size recently. Those countries have considerably larger populations. The massive state security forces seek to control every detail of the daily life of the average Cuban, as Congressman Lantos mentioned, and they are an enormous drain on the Cuban economy. But more important than that, they indicate the regime's determination to maintain absolute political control.

The modest economic changes that I mentioned have not been accompanied by political change, basic human rights remain repressed, democratic practices are not tolerated. In short, in our view, Cuba is a country at a dead end. Its economic and political systems have failed, and provided the Cuban people with neither the prosperity nor the freedom that they long for. Their daily existence is marked by scarcity, rationing and long lines.

And what is our response to this human tragedy in a country just 90 miles from our shores? On the one hand, we will continue our diplomatic, political and economic isolation of the Cuban Government and maintain our economic embargo as a form of leverage and pressure on the Cuban Government to start to meet the economic and political needs of its people.

On the other hand, we will actively reach out to the Cuban people with humanitarian assistance and offer improved telecommunications and an increased flow of information. This two-track policy, which is reflected in the Cuban Democracy Act, is supported by this administration because it meets our strategic as well as our humanitarian interests as a nation. These two tracks are clearly complementary, as the authors of the Cuban Democracy Act recognize.

Against this backdrop, let me review the act section by section, very briefly. Section 1703 of the Cuban Democracy Act correctly describes current U.S. policy. We believe that the future of Cuba is for the people of Cuba to decide through free and fair elections under international observation, we believe that the economic embargo and the diplomatic isolation are the best way to keep pressure on the Cuban Government to adopt democratic reforms and to start respecting human rights of the Cuban people.

We also want the Cuban people to know, using the words of section 1703, that we are also willing, "to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba." To date, we have seen no movement toward democracy or respect for human rights.

Section 1704 authorizes the President to suspend foreign assistance to any country that provides assistance, including loans, leases or credits at nonmarket rates to Cuba. We will continue to monitor this situation very, very closely.

In my testimony, I have got some specific cases to discuss, but I can skip over them here for the sake of brevity, if you will.

Mr. TORRICELLI. As long as they are submitted for the record?

Mr. WATSON. Yes, sir, I will be glad to submit the entire statement for the record as you request.

Section 1705 entitled, "Support for the Cuban People," is being implemented. Food donations to Cuba-based individuals or nongovernmental organizations have been deregulated, medicine and medical supplies may be licensed by the Department of Commerce for private donation to individuals and nongovernmental organizations in Cuba.

The humanitarian sale of medicine to Cuba may also be licensed when there is adequate on-site inspection and other appropriate means to verify that the export is not misused. Since the Cuban Democracy Act was passed last year, licenses valued at over \$3 million have been authorized for large, humanitarian aid shipments to Cuba.

These have included medicines and dental, medical and hospital supplies to numerous nongovernmental organizations in Cuba, including the Cuban Red Cross, the Cuban Ecumenical Council, the Cuban Baptist Convention, the Jewish Casa de la Comunidad Hebrea and CARITAS Cuba, the charitable organization of the Catholic bishops.

Earlier this year, the administration also authorized the "Basta!" organization to send two flotillas from Key West, Florida, with cargoes of medical and hospital supplies for the Cuban Red Cross and other nongovernmental groups. These large shipments are in addition to thousands of fully licensed packages that individuals send to their relatives on the island.

We are continuing to look at ways to streamline procedures for sending humanitarian goods directly to the Cuban people. This administration, Mr. Chairman, will continue to vigorously oppose politically motivated efforts to undermine the U.S. economic embargo. In regard to telecommunications, which has been mentioned here today, the Cuban Democracy Act authorizes "efficient and adequate" telecommunications between the United States and Cuba.

Under guidelines issued by the administration, American firms are now negotiating with Cuban authorities for a substantial increase in telephone links with full current settlement at standard international rates. Unfortunately, the Cuban response has initially been less than positive.

In regard to direct mail delivery, our approach to Cuba in the past for such service met with a negative Cuban response. We hope that subsequent overtures will be more fruitful.

On assistance to support democracy in Cuba, the National Endowment for Democracy continues to support human rights projects related to Cuba, dispersing over 500,000 in fiscal year 1993. These projects are undertaken by a wide variety of groups outside of Cuba. Once again, some of them will be mentioned in the statement submitted for the record. But they are all designed to promote nonviolent democratic change as the Cuban Democracy Act calls for.

Section 1706(a), the prohibition on licensing trade with Cuba by foreign subsidiaries of U.S. firms has been in effect since the Act was signed on October 23 last year. The Department of the Treasury has ceased to issue licenses for trade with Cuba by U.S.-owned or controlled firms located in third countries that had previously been permitted under certain circumstances by Treasury's Cuban Assets Control Regulations. Subsequent to the Act's passage in consistency with its provisions, Treasury only licensed such transactions where the underlying contracts were entered into before the Act was enacted.

Section 1706(b), sanctions on vessels calling at Cuban ports, has also been implemented. All indications have been that notification deterred such vessels coming to our ports to load or unload cargo. Sections 1707 and 8 concern U.S. aid and assistance to a transitional and to a democratic Cuban Government.

We, of course, will be ready to help Cuba in appropriate ways in its transition to democracy once the process is underway. We have studied the draft "Free Cuban Support Act" legislation proposed by Congressman Menendez and several cosponsors with interest and wish to work with this committee on ways to respond to the inevitable change in Cuba. Although the Cuban Democracy Act does not deal extensively with the issue of travel, I believe it is an important issue to address, since it has received widespread attention in the past few months.

The freedom to travel is a right that Americans cherish, as Congressman Berman stated here today. As you know, U.S. law does not prohibit travel to Cuba. It does, however, prohibit spending money on travel to Cuba except for certain authorized categories.

Over 15,000 American citizens and residents traveled legally to Cuba last year. The U.S. Government has no desire to keep its citizens from learning about the country of Cuba, its people and its culture, but we do want to deny the Cuban Government hard currency. We do not want to prolong the suffering of the Cuban people under a dictatorship which could happen were the Cuban Government to receive the economic windfall open travel would provide.

In October, the State Department gave provisional approval to the application of a licensed air charter service provider to increase flights to Cuba following changed visa procedures by the Cuban Government. The Congress and the administration were concerned that we not acquiesce in any attempt by the Cuban Government to require individuals going to visit relatives to purchase hotel accommodation packages in order to obtain expedited visas. Therefore, the Office of Foreign Assets Control issued a general circular advising licensed travel service providers that they could sell such packages only if a traveler voluntarily indicated that he or she wished to stay in a hotel.

We have been monitoring the new travel procedures carefully since the issuance of the circular. And information received from the air charter service provider indicates there has been compliance with that circular. We will continue to monitor in conjunction with the Office of Foreign Assets Control very, very closely these travel-related transactions to ensure that any hotel packages sold are purchased on a voluntary basis.

Meanwhile, we have begun a policy of approving additional flights after a careful review on a month-to-month basis. The demand, however, I should note, has not been as great as the air charter service providers anticipated.

Also, on the subject of travel, this is very important, approximately 170 members of the ad hoc Committee for Freedom to Travel took a protest trip to Havana in the second week of October. The publicly stated goal was to violate the embargo's ban on travel-related expenditures and assert an unqualified right to travel for any reason.

Customs officials interviewed many of the protestors and confiscated passports which had Cuban entry stamps as evidence of travel to Cuba for possible use in prosecutions. The Department of Justice is reviewing the situation to determine if there is sufficient evidence to warrant prosecution.

As with humanitarian donations, the President's policy on travel is to support both the letter and the spirit of the embargo. The other major travel-related issue eliciting significant interest has been the ongoing interagency review of the free flow of information as it relates to economic sanctions programs which Secretary Christopher told Congressman Berman we would undertake.

We are trying to strike a balance between the U.S. interest in promoting democracy, to enhanced information exchange, including by travel and our pursuit of other U.S. foreign policy and security goals. On Cuba, the President's dual commitment is to enforce a

strong economic embargo against the regime while reaching out to the people of Cuba.

In conclusion, Mr. Chairman, I wish to emphasize the importance of both tracks of our policy and how closely they are intertwined one with the other. Without the embargo and vigorous enforcement of its provisions, our leverage to promote peaceful change would dissipate overnight. Without humanitarian assistance and information sharing, our policy would be needlessly harsh and could add to the suffering of the Cuban people. But taken as a whole, we believe we have a comprehensive well-reasoned program, the result of close collaboration between Congress and the Executive and one which enjoys bipartisan support.

We are saying no to a dictatorial government, and giving an emphatic "yes!" To the people who suffer under it. We look forward to the day when the Cuban people regain their freedom, their economic security, and the bright future they have been denied so long.

Thank you very much, Mr. Chairman.

Mr. TORRICELLI. Thank you. Mr. Newcomb.

STATEMENT OF THE HON. R. RICHARD NEWCOMB, OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

Mr. NEWCOMB. Thank you, Mr. Chairman, members of the committee. I am pleased to be here today to discuss the Cuban Democracy Act, the embargo against Cuba, and travel-related financial transactions under the embargo. As you know, the Treasury Department's Office of Foreign Assets Control is responsible for implementing and enforcing economic embargoes and sanctions programs.

The Cuba embargo as it existed before the Cuban Democracy Act prohibited all commercial financial and trade transactions by all persons subject to U.S. jurisdiction, which includes U.S. citizens, permanent residents wherever they are located, all people and organizations physically located in the United States and all branches and subsidiaries of U.S. organizations throughout the world. The Cuban asset control regulations which implement the embargo contained certain limited exemptions for specific types of transactions in the following area: limited family remittances, certain limited travel transactions, trade and informational materials, and trade by U.S. foreign subsidiaries.

It is within this context that the Cuban Democracy Act (CDA) was enacted. The original program remains in effect, as altered by the provisions of the Cuban Democracy Act, as outlined by Assistant Secretary Watson, most notably for our purposes, at Treasury, regarding exports of food and medicine, offshore trade by foreign subsidiaries of U.S. companies and telecommunications. I would like to discuss briefly offshore trade by foreign subsidiaries of U.S. companies.

The CDA prohibits the issuance of licenses pursuant to the section 559 of our regulations allowing offshore transactions by Cuba with foreign subsidiaries of U.S. firms. The prohibition against issuing licenses was softened slightly, however, in that the CDA provides that the provision shall not affect contracts entered into before the date of enactment of the CDA.

Most such situations were brought to our attention within weeks of passage of the Act and licenses to allow completion of a pre-CDA contract have been issued where appropriate. Total trade licensed under section 559 had risen from \$332 million in 1989, to \$705 million in 1990, \$718 million in 1991. By 1992, trade had fallen to \$336 million, and in 1993, reflecting the prohibitions of the Cuban Democracy Act, it is now just \$1.6 million.

The Governments of Canada and the U.K. which have normal trade relations with Cuba, have issued blocking orders which prohibit companies organized under their laws from complying with U.S. law with regard to prohibitions on trade with Cuba. In addition, the Canadian order requires Canadian companies to report any instruction, directive or advice it receives from its parent corporation concerning trade with Cuba to the Canadian Government.

Despite these measures that affect foreign subsidiaries of U.S. companies in these countries, we intend to implement U.S. law as it is written and hold firms subject to U.S. jurisdiction responsible for complying with the embargo. We have entered into discussion with regulators in Canada and the U.K. to attempt to minimize disputes arising from these conflicting legal requirements.

Another area of great interest has been telecommunications between the United States and Cuba. The CDA permits telecommunications services between Cuba and the United States, notwithstanding other restrictions on transactions with Cuba. This broad authorization for services is coupled with some limitations on the facilities that may be used in providing services; the quality and quantity of facilities are authorized as may be necessary to provide efficient and adequate services.

Policy guidance developed by State, Treasury and the FCC, among other agencies, specifies that new service proposals must be capable of full implementation within a year, must be limited to equipment and services necessary to deliver a signal to an international telecommunications gateway in Cuba, and new modes of service such as fiber-optic cable must be approved in advance. The latter contains some technical requirements as well.

The CDA specifically provides that payments to Cuba will be made pursuant to a license. We have published regulations establishing the procedures for securing such a license. The CDA states that payments may be licensed for full or partial settlement with Cuba. However, it does not provide for payments from blocked accounts. As a first step in implementing the CDA telecommunications policy, we have issued licenses to telecommunications companies authorizing transactions incident to their travel to Cuba for the purpose of negotiating to provide for telecommunications services between the United States and Cuba.

On the subject of travel, as you know, travel-related transactions are authorized by general license for individuals who are visiting close relatives residing in Cuba, traveling on official government business for the United States or for a foreign government, or traveling for the purpose of news gathering or doing professional research of a noncommercial academic nature specifically related to Cuba where the product of the research is likely to be disseminated.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
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PARTY DESIGNATIONS*: Petitioner's Designations During Its Trial Period—Yellow or Pink
Respondent's Designations During Its Trial Period—Green
Petitioner's Designations During Its Rebuttal Period—Blue

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony and Appendix of Adargelio Garrido de la Grana, dated June 3, 2003**

(Appendices to Written Direct Testimony not highlighted to preserve clarity)

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

WRITTEN DIRECT EXAMINATION TESTIMONY OF ADARGELIO GARRIDO DE LA GRANA

1. Mi nombre es Adargelio Garrido de la Grana. Resido en el edificio 24, apt. 102, Camilo Cienfuegos, Habana del Este, ciudad de la Habana, Cuba. Me gradué de la Facultad de Derecho de la Universidad de la Habana en 1982 y tengo mi licencia para ejercer la abogacía en Cuba. Una vez que me gradué de la escuela de derecho trabajé en la Empresa Pecuaria General Gustev (empresa dedicada a la manufactura de productos de cerdo y otros) como asesor legal durante diez meses. En 1983-85, trabajé en ATM Industria Ligera (proveedores a la industria ligera) como asesor legal y de 1985-1987 trabajé como asesor legal de Cubatex, una empresa importadora de textiles. Desde 1987 hasta noviembre de 1993 trabajé como abogado en el departamento legal de Cubatabaco. En noviembre de 1993 asumí el puesto de jefe del departamento legal de Cubatabaco. Desde setiembre de 1994 he sido el jefe del departamento legal de Habanos, S. A., que proporciona servicios legales a Cubatabaco con respecto a asuntos relacionados con marcas registradas.

2. En noviembre de 1992 yo no era capaz de hablar inglés y no entendía el inglés hablado, excepto las frases más básicas. Me hubiera sido imposible, en noviembre de 1992, entender y/o discutir asuntos legales en inglés. Me era también imposible llevar a cabo una conversación en inglés. Antes de noviembre de 1992 yo nunca había viajado a ningún país de habla inglesa. Empecé a estudiar inglés en 1993, leyéndolo y escuchando cintas "cassette" y he continuado estudiando y practicando el inglés desde entonces. Al igual que todos los niños escolares cubanos, yo recibía una clase en inglés por semana durante los últimos

seis grados antes de entrar a la universidad. En la universidad estudié francés en vez de inglés.

3. Cubatabaco llevó a cabo una conferencia internacional en la Habana en noviembre de 1992, planificada para que coincidiera con el 500^{avo} aniversario del viaje de Cristóbal Colón y el descubrimiento del tabaco por los europeos. Cubatabaco aprovechó la ocasión para lanzar la línea "Siglo" de COHIBA. A dicha conferencia asistieron aproximadamente 100 personas y aproximadamente 300 personas presenciaron el lanzamiento de la línea Siglo. Durante dicha conferencia me presentaron, en el vestíbulo del Palacio de Convenciones (donde se llevaron a cabo las presentaciones), a una persona de los Estados Unidos y se me dijo que era de la compañía Culbro. No recuerdo el nombre de dicha persona, pero el apellido Milstein no me suena conocido. No conversé él, únicamente me lo presentaron. Tampoco entré en ninguna discusión con él respecto a la marca COHIBA o el diseño de COHIBA, ni hubiera yo entrado en ninguna discusión de esa índole. Yo no era el jefe del departamento legal y tampoco tenía yo la autorización de participar en conversaciones de ese tipo. Tal y como lo dije en mi declaración jurada, ni aún habiendo perdido yo la mente hubiera mencionado algo respecto a los derechos de COHIBA.

4. En abril de 1984, Cubatabaco hizo solicitud para inscribir la marca COHIBA en la República Dominicana en la clase nacional 10, la cual se aplica a puros y otros productos manufacturados de tabaco. La solicitud de Cubatabaco para inscribir COHIBA en la clase 10 fue rechazada en junio de 1984 con base en el hecho de que existía un registro previo cuyo título estaba a nombre de Tabacos

del Caribe. Identifico a PX 28 (P2447) como la carta de rechazo de inscripción en clase 10.

5. En agosto de 1984, Cubatabaco inscribió la marca COHIBA en la República Dominicana en clase nacional 1, la cual cubre el tabaco en rama. Identifico a PX 1138 (33) como copia de dicha inscripción.

6. En mayo de 1994, Cubatabaco hizo solicitud para registrar la marca COHIBA en la República Dominicana en clase nacional 51, la cual cubre artículos para el fumador. Esta solicitud fue rechazada por el Secretario de Estado de Industria y Comercio de la República Dominicana, con base en el hecho de que existía un registro previo, cuyo título estaba a nombre de Julio Pérez González. Identifico a PX 28 (P2448) como una copia de la carta de rechazo de la inscripción en clase 51.

7. A principios de 1996, recibí información de parte del Consulado de Cuba en la República Dominicana de que una empresa dominicana, Monte Cristi, de propiedad de Julio Pérez González, estaba fabricando puros con la marca COHIBA. Aproximadamente al mismo tiempo recibí copia de un artículo de una revista francesa con la misma información. Pensé que tal vez Tabacos del Caribe, propietarios de la marca COHIBA en clase 10, posiblemente estaría afiliada con Monte Cristi y Julio Pérez González porque Julio Pérez González había registrado a COHIBA en una clase relacionada (clase 51, artículos para el fumador). Asumí que Monte Cristi estaba fabricando puros bajo la marca COHIBA mayormente para exportación, puesto que la República Dominicana era un mercado muy pequeño.

8. En junio de 1996 di instrucciones a los abogados de Cubatabaco en la República Dominicana para que empezaran procedimientos legales con el propósito de cancelar las inscripciones COHIBA en clase 10 (puros y otros productos del tabaco) de propiedad de Tabacos del Caribe y en clase 51 (artículos para el fumador), de propiedad de Julio Pérez González.

9. Después leí un artículo publicado en la edición de *Cigar Insider* de junio de 1996, el cual reportaba que la compañía Monte Cristi estaba fabricando puros bajo la marca COHIBA y vendiéndolos en los Estados Unidos, al igual que en otras partes, y que esta compañía era la principal fuente de puros falsos en los Estados Unidos, provenientes de la República Dominicana. Dicho artículo también mencionaba que la empresa Monte Cristi estaba manufacturando 1.6 millones de COHIBAS al año, la mayoría de ellos exportados, siendo los Estados Unidos una de sus fuentes primordiales de su comercio. Dicho artículo mencionaba a Julio Pérez González como propietario de la empresa Monte Cristi.

10. El 30 de setiembre de 1996, los abogados de Cubatabaco en la República Dominicana interpusieron peticiones para cancelar el registro No. 34312 (clase 10) y el registro No. 55555 (clase 51). Identifico a PX 38 (P3903-05) y a PX 28 (P2439-42) como las peticiones interpuestas por parte de Cubatabaco con el propósito de cancelar dichos registros. También me enteré, en 1996, de que alguien había registrado la marca COHIBA en la clase 59 (bebidas), y di instrucciones a los abogados de interponer una petición para cancelar dicha registración, lo cual se hizo el 30 de setiembre de 1996. Identifico al documento PX 28 (P2436-38) como la petición para cancelar el registro en clase 59.

11. El 29 de Julio de 1998, el Secretario de Estado de Industria y Comercio de la República Dominicana emitió la Resolución 167, aceptando la petición de Cubatabaco de cancelar el registro en clase 10 (puros y otros productos derivados del tabaco) y permitiéndole a Cubatabaco inscribir la marca COHIBA en dicha clase. Identifico el documento PX 84 (P18904-07) como copia de la Resolución No.167. En esa misma fecha, por Resolución No. 168, el Secretario de Estado de Industria y Comercio de la República Dominicana otorgó la petición hecha por Cubatabaco de cancelar la registración de COHIBA en clase 59 (bebidas). Identifico el documento No. PX 528 como copia de la resolución No. 168.
12. En 1998, una vez que estas decisiones fueron emitidas, Habanos, S.A., como concesionario exclusivo de Cubatabaco, empezó a vender puros COHIBA en la República Dominicana.
13. El 30 de marzo de 1999, fue emitida el registro No. 98255 a Cubatabaco para la marca COHIBA en clase 10 (puros y otros productos derivados del tabaco). Identifico el documento PX 527 como copia de dicho registro.
14. En mayo de 2002, actuando bajo la petición hecha por Boutique del Fumador, la cual había adquirido el registro en clase 51 (artículos para el fumador) de propiedad de Julio Pérez González, la oficina de marcas canceló el registro de Cubatabaco en clase 10. Dí instrucciones a los abogados de Cubatabaco en la República Dominicana de apelar dicha decisión. El 21 de marzo de 2003, la Oficina Nacional de la Propiedad Industrial de la República Dominicana emitió la Resolución No. 000019/03, en la cual fallaba a favor de

Cubatabaco y reinstituía el registro de COHIBA en la clase 10 a Cubatabaco.

Identifico el documento PX 1252 como copia de dicha resolución. He sido informado que dicha decisión ha sido apelada en los tribunales.

15. No fue sino hasta 1999 que la oficina de marcas emitió su fallo, negándole a Cubatabaco la petición de cancelar el registro en clase 51 (artículos para el fumador), de propiedad de Julio Pérez González. El litigio continúa con respecto a los derechos a la marca COHIBA en clase 51. La apelación de Cubatabaco ante dicha decisión fue negada por la oficina de marcas y la apelación de Cubatabaco a la corte está actualmente en trámites.

16. El 7 de noviembre de 2001, Cubatabaco demandó a Julio Pérez González y a Monte Cristi por competencia desleal y daños a raíz de su uso ilegal de la marca COHIBA. Dicho litigio está aún en curso. Algunos meses después, en enero de 2002, Cubatabaco demandó también a Boutique del Fumador por competencia desleal y daños. El 25 de octubre de 2001, Cubatabaco presentó una demanda contra la Tienda Nader et. al. por vender ilegalmente puros COHIBA falsos en la República Dominicana.

17. Identifico el Apéndice A Ex. 9, Sección D, Página 111 de la orden unida previa al juicio, como el convenio entre Cubatabaco y Tabacuba, el suministrador de puros en Cuba, acordado el 10 de diciembre del 2000, por medio del cual Tabacuba acuerda en venderle puros a Cubatabaco. Identifico el Apéndice A, Documentos de Prueba 5 y 6, Sección D, Página 111 de la orden unida previa al juicio como los convenios entre Cubatabaco y Habanos, S. A., acordado el 10 de diciembre del 2000, por medio del cual Cubatabaco nombra a Habanos, S. A.

como distribuidor exclusivo de puros COHIBA en Cuba, y Cubatabaco acuerda vender y Habanos, S. A. acuerda en comprar, puros COHIBA para su distribución en Cuba. Ambos convenios también cubren otras marcas.

18. Desde que yo era un niño en la década de los 60, aprendí sobre los puros y la industria del tabaco en Cuba y sabía que mucha gente fumaba puros en nuestro país. La industria de los puros está muy vinculada a la historia y la cultura de Cuba. En mis lecciones de historia en la escuela secundaria leí libros referentes a la importancia histórica de los puros y de los trabajadores del tabaco. Uno de los historiadores cubanos de más importancia, Fernando Ortiz, escribió sobre la historia del tabaco y los puros en Cuba. Los puros son mencionados en las letras de las canciones populares y en las novelas populares. Desde que tengo uso de razón, los informes noticiosos relacionados con la industria de los puros han sido publicados frecuentemente en los periódicos y reportados en televisión. Mi padre, al igual que mis vecinos, fumaba puros. Los puros estaban disponibles para la venta en los negocios locales. Tanto en Matanzas, la provincia donde crecí, como en la Habana, adonde me mudé para asistir a la universidad, a diario veía a mucha gente fumando puros. Hasta mediados de 1980 cuando dejó de fumar, Fidel Castro casi siempre aparecía en público con un puro, tal y como se ve en fotos de periódicos y de televisión de esa época. Recuerdo que mi padre y sus amigos hablaban de COHIBA y mencionaba que era el puro que Fidel Castro fumaba. También recuerdo a mis vecinos de Matanzas mencionar la marca COHIBA. Cuando estaba en la universidad, los estudiantes hablaban de puros y mencionaban la marca COHIBA. En 1977, cuando yo comencé mis estudios en

la universidad de la Habana, vi puros COHIBA a la venta en el hotel Habana Libre, el cual estaba situado a una cuadra de la universidad. Durante el periodo en que los Estados Unidos eliminó el embargo viajero, de marzo de 1977 hasta abril de 1982, visité el área de recreo de la playa de Varadero para pasar una temporada con un pariente que había viajado desde Miami y vi puros COHIBA a la venta en los dos hoteles que visité en Varadero. Ambos hoteles tenían muchos visitantes de los Estados Unidos, particularmente de origen cubano.



STATE OF NEW YORK)

)

SS..

COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that I have compared the attached Spanish and English texts and that they are, to the best of my knowledge and belief, the same statement in the two different languages

New York, May 22, 2003.

FOREIGN TRANSLATIONS CENTER, LTD.

Susan E. Geddes, President

Sworn to and subscribed before me on
May 22, 2003.

Kamran Bayegan

Notary Public

State of New York

No. 01BA-4869903

Qualified in New York County

Commission Expires: 09/02/2006

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1. My name is Adargelio Garrido de la Grana. I reside at Edificio 24, apt. 102, Camilo Cienfuegos, Habana del Este, City of Havana, Cuba. I graduated from the Faculty of Law of the University of Havana in 1982 and am licensed to practice law in Cuba. After graduating law school, I worked at the Empresa Pecuaria General Gustev (a pork and other food products producer) as legal advisor for ten months. In 1983-1985, I worked at ATM Industria Ligera (a supplier to light industry) as legal advisor, and from 1985-1987, I worked as legal advisor to Cubatex, an import enterprise for textiles. From 1987 until November 1993, I worked as a lawyer in the legal department of Cubatabaco. In November 1993, I assumed the position of head of the legal department of Cubatabaco. Since September 1994, I have been the head of the legal department of Habanos, S.A., which provides legal services to Cubatabaco with respect to trademark matters.

2. In November 1992, I was not able to speak English and I did not understand spoken English except for the most rudimentary phrases. It would have been impossible for me in November 1992 to understand and to discuss legal matters in a conversation conducted in English. I was not able to carry on any conversation in English. Prior to November 1992, I had not traveled to an English speaking country. I began to study English in 1993 by reading and listening to cassette tapes, and I have continued to study and practice English since then. Like all Cuban schoolchildren, I was given one class per week in English once a week for the last six grades before University. At the University, I studied French, not English.

3. Cubatabaco held an international conference in Havana in November 1992, timed to coincide with the 500th Anniversary of Columbus= voyage and the European discovery of tobacco. Cubatabaco used the occasion to launch the Siglo (“century”) line of Cohiba. There were approximately 100 persons in attendance at the conference, and approximately 300 persons

attended the launch of the Siglo line. During the conference, I was introduced to someone from the United States who I was told was from the Culbro Company, in the lobby of the Palace of Conventions, where the conference presentations took place. I do not recall the name of the person, but the name Milstein does not sound familiar. I did not have a conversation with this individual; it was just an introduction. I did not engage in any discussion with him about the rights to the Cohiba trademark or the Cohiba design, nor would I have engaged in any such conversation. I was not the chief of the legal department and I was not authorized to engage in any such conversations. As I said in my deposition, not even if I had lost my mind would I have said anything about the rights to Cohiba.

4. In April 1984, Cubatabaco applied to register the mark COHIBA in the Dominican Republic in national class 10, which is for cigars and other manufactured tobacco products. Cubatabaco's application to register COHIBA in class 10 was rejected in June 1984 on grounds that it conflicted with a prior registration, the titleholder of which was Tabacos del Caribe. I identify PX28 (P2447) as the letter of refusal of registration in class 10.

5. In August 1984, Cubatabaco registered the mark COHIBA in the Dominican Republic in national class 1, which covers raw tobacco. I identify PX 1138(33) as a copy of that registration.

6. In May, 1994, Cubatabaco applied to register the mark COHIBA in the Dominican Republic in national class 51 which covers smokers articles. This application was rejected by the Secretary of State of Industry and Commerce of the Dominican Republic on the grounds that it conflicted with a prior registration, the titleholder of which was Julio Perez Gonzalez. I identify PX28 (P2448) as a copy of the letter of refusal of registration in class 51.

7. At the beginning of 1996, I received information from the Cuban Consulate in the Dominican Republic that a Dominican Company, Monte Cristi, owned by Julio Perez Gonzalez, was manufacturing cigars under the Cohiba mark. At about the same time, I received a copy of an article in a French magazine with the same information. I believed that Tabacos del Caribe, the owner of the registration for COHIBA in class 10, must be affiliated with Monte Cristi and Julio Perez Gonzalez because Julio Perez Gonzalez had registered COHIBA in a related class (class 51, smokers articles.) I assumed that Monte Cristi was manufacturing cigars under the COHIBA name mostly for export, since the Dominican Republic was such a small market.

8. In June 1996, I instructed lawyers for Cubatabaco in the Dominican Republic to begin proceedings to cancel the COHIBA registrations in class 10 (cigars and other manufactured tobacco goods) owned by Tabacos del Caribe, and in class 51 (smokers articles) owned by Julio Perez Gonzalez.

9. I subsequently read an article published in the June 1996 issue of *Cigar Insider*, which reported that the company Monte Cristi was manufacturing cigars under the COHIBA name and selling them to the United States as well as elsewhere, and that this company was the primary source of counterfeit COHIBA cigars in the United States from the Dominican Republic. The article also said that the Monte Cristi company was making 1.6 million Cohibas per year, and that most are exported, with the United States being a major source of its business. The article said that Julio Perez Gonzalez was the owner of the Monte Cristi company.

10. On September 30, 1996, Cubatabaco's lawyers in the Dominican Republic filed petitions to cancel registration No. 34312 (class 10) and registration No. 55555 (class 51). I identify PX38 (P3903-05) and PX28(P2439-42) as the petitions filed on behalf of Cubatabaco to cancel these registrations. Also in 1996, I became aware that someone had registered the mark

COHIBA in class 59 (beverages), and I instructed the lawyers to file a petition to cancel that registration, which was done on September 30, 1996. I identify PX28 (P2436-38) as the petition to cancel the registration in class 59.

11. On July 29, 1998, the Secretary of State of Industry and Commerce of the Dominican Republic issued Resolution No. 167 granting Cubatabaco's petition to cancel the registration in class 10 (cigars and other manufactured tobacco products) and allowing Cubatabaco to register the mark COHIBA in that class. I identify PX 84 (P18904-07) as a copy of Resolution No. 167. On the same date, by Resolution No. 168, Secretary of State of Industry and Commerce of the Dominican Republic granted Cubatabaco's petition to cancel the registration of COHIBA in class 59 (beverages). I identify PX 528 as a copy of Resolution No. 168.

12. In 1998, after these decisions issued, Habanos, S.A., as Cubatabaco's exclusive licensee, began selling COHIBA cigars in the Dominican Republic.

13. On March 30, 1999, Registration No. 98255 issued to Cubatabaco for the mark COHIBA in class 10 (cigars and other manufactured tobacco products). I identify PX 527 as a copy of that registration.

14. In May 2002, acting on the petition of Boutique del Fumador, which had acquired the registration in class 51 (smokers articles) owned by Julio Perez Gonzalez, the trademark office cancelled Cubatabaco's registration in class 10. I instructed Cubatabaco's lawyers in the Dominican Republic to appeal that decision. On March 21, 2003, the National Office of Industrial Property of the Dominican Republic issued Resolution No. 000019/03 in which it ruled in favor of Cubatabaco and reinstated Cubatabaco's registration of COHIBA in class 10. I

identify PX 1252 as a copy of that Resolution. I have been informed that this decision has been appealed to the courts.

15. It was not until 1999 that the trademark office issued its opinion denying Cubatabaco's petition to cancel the registration owned by Julio Perez Gonzalez in class 51 (smokers articles). Litigation continues over the rights to the mark COHIBA in class 51. Cubatabaco's appeal of that decision was denied by the trademark office and Cubatabaco's appeal to the court is now pending.

16. On November 7, 2001, Cubatabaco sued Julio Perez Gonzalez and Monte Cristi for unfair competition and damages arising from their unlawful use of the mark COHIBA. That litigation is still pending. A few months later, in January 2002, Cubatabaco also brought an action for unfair competition and damages against Boutique del Fumador. On October 25, 2001, Cubatabaco brought a suit against Tienda Nader et al. for unlawfully selling counterfeit Cuban COHIBA cigars in stores in the Dominican Republic.

17. I identify Appendix A Ex. 9, Section D, page 111 of the Joint Pre-Trial Order, as the agreement between Cubatabaco and Tabacuba, the supplier of cigars in Cuba, entered into on December 10, 2000, in which Tabacuba agrees to sell Cohiba cigars to Cubatabaco. I identify Appendix A, Exhibits 5 and 6, Section D, page 111 of the Joint Pre-Trial Order as the agreements between Cubatabaco and Habanos, S.A. entered into on December 10, 2000 under which Cubatabaco names Habanos, S.A. its exclusive distributor of Cohiba cigars in Cuba, and Cubatabaco agrees to sell, and Habanos, S.A. agrees to purchase, Cohiba cigars for distribution in Cuba. The two agreements also cover other brands.

18. From the time I was a small child in the 1960s, I learned about cigars and the tobacco industry in Cuba, and I knew that many people in Cuba smoked cigars. The cigar

industry was very connected to the history and culture of Cuba. In my history lessons in secondary school I read books on the historical importance of cigars and of tobacco workers. One of the most important Cuban historians, Fernando Ortiz, wrote about the history of tobacco and cigars in Cuba. Cigars are mentioned in the lyrics of popular songs and in popular novels. News reports on the cigar industry have been published frequently in newspapers and reported on TV since as long as I can remember. My father smoked cigars and my neighbors smoked cigars as well. Cigars were available for sale at the local grocery store. In both Matanzas province where I grew up and in Havana where I moved to study at the university, I saw many people smoking cigars daily. Until the mid-1980s when he stopped smoking, Fidel Castro almost always appeared in public with a cigar as seen in photographs in newspapers and on television at that time. I recall that my father and his friends talked about COHIBA and mentioned that it was the cigar smoked by Fidel Castro. I also recall neighbors in Matanzas mentioning the brand COHIBA. When I was at the university, students talked about cigars and mentioned COHIBA. In 1977, when I started studying at the University of Havana, I saw COHIBA cigars for sale at the Havana Libre Hotel, which was located a block away from the university. During the period when the United States lifted the travel ban, from March 1977 through April 1982, I visited the Veradero beach resort area to spend time with a relative who had traveled from Miami and I saw COHIBA cigars on sale at the two hotels at Veradero that I visited, both of which had many visitors from the United States, particularly Cuban-Americans.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----		X
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix A to Federal Action Plaintiff's Written Direct
Testimony of Adargelio Garrido de la Grana, dated June 3, 2003**

Appendix A

App. A. Ex. 1.	P 0934 - 0936, D. Dep. Ex. 30, Exclusive Use License Contract (9/15/94), Translation, and Declaration of Debra Evenson
App. A. Ex. 2.	P 10034, D. Dep. Ex. 110 & 110A, Amendment to 9/15/94 Exclusive Use Agreement (12/10/00) ¹
App. A. Ex. 3.	P 9917 - 18, D. Dep. Ex. 112 & 112A, Service Contract (6/12/96)
App. A. Ex. 4.	P 9919 - 21, D. Dep. Ex. 117, Addendum No. 1, Contract of the Provision of General Services (6/12/96), Translation, and Declaration of Debra Evenson
App. A. Ex. 5.	P 10035 – 10045, D. Dep. Ex. 114 & 114A, Contract of Exclusive Distribution (12/10/00)
App. A. Ex. 6.	P 10294, D. Dep. Ex. 114C, Addendum No. 1 to Contract of Exclusive Distribution (12/10/00), Translation, and Declaration of Debra Evenson
App. A. Ex. 7.	P 10046 – 10053, D. Dep. Ex. 115 & 115A, Commission Contract (12/10/00)
App. A. Ex. 8.	P 10296 – 10297, Addendum 2 to Contract of Commission (12/10/2000), Translation, and Declaration of Debra Evenson
App. A. Ex. 9.	P 10054 - 70, D. Dep. Ex. 116, Contract for the Supply of Rolled Tobacco (12/10/00), Translation, and Declaration of Debra Evenson
App. A. Ex. 10.	P 10295, Addendum No. 1 to the Contract of Exclusive Distribution (12/10/00), Translation, and Declaration of Debra Evenson

¹ The deposition exhibits identified with an “A” suffix are translations prepared by defendants. Plaintiff reserves the right to substitute other translations if, upon review, it determines defendants’ translations not to be adequate.

DEFENDANTS
DEPOSITION
EXHIBIT

114A
2/6/01 AA

[LW4]

EXCLUSIVE DISTRIBUTION CONTRACT

City of Havana, December 10, 2000

EMPRESA CUBANA DEL TABACO, hereinafter called **CUBATABACO**, domiciled at O'Reilly No. 104, Havana, Cuba, represented by Juan Díaz Tenorio, in his capacity as Director, and

CORPORACION HABANOS, Sociedad Anónima, hereinafter called the **DISTRIBUTOR**, domiciled at Mercaderes No. 21, Old Havana, City of Havana, Republic of Cuba, represented herein by Messrs. Oscar Basulto and Jaime García-Andrade, in their capacities as Co-Chairmen,

DECLARE

First: That **CUBATABACO** is the owner of the tobacco trademark registrations described in Appendix No. 1 to this Contract, hereinafter called the **TRADEMARKS**.

Second: That the products covered by these trademarks are manufactured by the Grupo Empresarial del Tabaco pursuant to the Supply Contract for Rolled Tobacco signed with **CUBATABACO**.

Third: That the **DISTRIBUTOR** is the only Cuban entity with a structure capable of implementing an international marketing program for the products covered by the **TRADEMARKS**.

Fourth: That it is in the **DISTRIBUTOR'S** interest to market the aforementioned **TRADEMARKS**. For that reason, they decided to sign this Contract.

For all of the aforementioned reasons, Both Parties

AGREE

1. DEFINITIONS

1.1 **PRODUCTS** means rolled cigars made in Cuba, known throughout the world as "Havanas," to be sold under the commercial trademarks described in Appendix No. 1. Reference numbers, quantities, and prices shall be agreed upon annually by the **PARTIES**.

1.2 **COMMERCIAL TRADEMARKS** means the trademarks owned by **CUBATABACO**, which are described in the aforementioned Appendix No. 1.

[LWS]

- 1.3 TERRITORY means all of the countries in the world where the COMMERCIAL TRADEMARKS are available for marketing.

The parties agree that if the trade embargo imposed by the US on Cuba should be lifted during the course of this Contract, they will negotiate in good faith to incorporate the supply of trademarks destined for that market into this Contract.

2. AUTHORIZATIONS

- 2.1 As consideration for the obligations assumed by the DISTRIBUTOR under this Contract, CUBATABACO hereby appoints the DISTRIBUTOR, who in turn accepts the appointment, as the sole and exclusive distributor of CUBATABACO, for exporting, distributing, and marketing the PRODUCTS within the TERRITORY.
- 2.2 The DISTRIBUTOR may enter into similar contracts for marketing the PRODUCTS within the TERRITORY, whereupon all of the obligations agreed upon herein would be transferred to the corresponding sub-distributors.
- 2.3 CUBATABACO agrees to supply the PRODUCTS only to the DISTRIBUTOR for sale within the TERRITORY, and not to supply the PRODUCTS to consumers within the TERRITORY, unless an agreement to the contrary has been reached.
- 2.4 Upon receipt of a request for information or order of any sort for the resale of PRODUCTS within the TERRITORY, CUBATABACO shall refer the matter to the DISTRIBUTOR.
- 2.5 With reasonable notice to the DISTRIBUTOR, CUBATABACO reserves the right to remove from Appendix No. 1 those cigars and/or commercial trademarks that CUBATABACO has stopped manufacturing or selling.
- 2.6 CUBATABACO shall render whatever assistance the DISTRIBUTOR may reasonably require with regard to any interference with or violation of its rights pursuant to this Contract.
- 2.7 BOTH PARTIES shall cooperate to streamline their workload while increasing their efficiency and competitiveness.

3. THE DISTRIBUTOR'S OBLIGATIONS

The DISTRIBUTOR agrees to:

- 3.1 Vigorously, diligently, and in the manner of a good and efficient salesman, promote sales, as well as advertise and solicit orders for the PRODUCTS within the TERRITORY; do its utmost to attract the attention of potential clients for the PRODUCTS; visit existing and potential clients as often as necessary in order to expand and improve sales of the PRODUCTS within the TERRITORY—all as

[LW6]

essential conditions of the very nature of this Contract. The DISTRIBUTOR further agrees to market at least the same quantities every year as distributed the year before.

3.2 Do its utmost to develop and preserve the good name and reputation of CUBATABACO, the PRODUCTS, and the TRADEMARKS.

3.3 Keep the products permanently stored at a temperature of 16 degrees Celsius (plus or minus 2 degrees Celsius), at a relative humidity of 70% (plus or minus 5%), with a circulating flow of fresh air, so they can be delivered in good condition for consumption.

3.4 For its own account and risk:

- a) Obtain all authorizations, licenses, and permits as required by Law;
- b) Pay all taxes, fees, honoraria, and expenses whatsoever, including bank fees; and
- c) Comply with all obligations imposed by any authorities, which obligations may arise or be related to the resale, and/or distribution of the PRODUCTS within the TERRITORY.

3.5 Inform CUBATABACO immediately, whenever necessary, and with the frequency that CUBATABACO may reasonably request about:

- a) any occurrences or trends related to demand for the PRODUCTS, as well as client and/or customer relationships;
- b) all price lists issued or delivered by the DISTRIBUTOR to its clients;
- c) competitors' activities, including availability and characteristics of competitive products;
- d) laws or legal provisions either proposed or enacted by authorities which might affect this Contract or the import, resale and/or distribution of the PRODUCTS;
- e) technical or commercial literature pertaining to the tobacco industry;
- f) quality problems detected in marketing the PRODUCTS;
- g) other matters or issues within the TERRITORY related to this Contract, to the extent that such information is reasonably accessible to the DISTRIBUTOR.

[LW7]

- 3.6 Not to seek clients, establish any branches, maintain any warehouse or distribution store, advertise or promote sales for the PRODUCTS with the intention of selling these outside of the TERRITORY, unless the PARTIES have expressly agreed in writing to do so.
- 3.7 Not to manufacture, sell, or distribute any products that compete with the PRODUCTS, unless the parties have expressly agreed in writing to do so.

4. ANNUAL SALES CONTRACTS

- 4.1 This Contract is not a contract for the sale of specific products, but instead, only establishes the general conditions under which annual sales contracts between the PARTIES will be entered into.
- 4.2 The PARTIES shall enter into these individual sales contracts every year in order to determine, among other things: commercial trademarks, commercial names, ring gauges, quantities, delivery time periods, payment currencies, and delivery conditions for the PRODUCTS to be delivered by CUBATABACO to the DISTRIBUTOR within the same or following calendar year. Prices shall be those that appear on the most recent price list published or delivered by CUBATABACO to the DISTRIBUTOR, unless there is an express agreement to the contrary.

Orders by ring gauge, quantities, and specified delivery terms may be agreed to on the condition that these are later confirmed by CUBATABACO.

- 4.3 Annual sales contracts shall be formalized in writing or by a simple exchange of faxes containing orders and confirmations. No order shall be valid unless it is confirmed in writing or by fax notification.

5. DELIVERIES

- 5.1 Pursuant to the provisions of the Supply Contract between Cubatabaco and Grupo Empresarial del Tabaco, the PRODUCTS shall be delivered directly by Grupo Empresarial del Tabaco to the DISTRIBUTOR. For this reason, the DISTRIBUTOR shall be subrogated in place of CUBATABACO with regard to all rights and obligations derived from this contract, for the delivery and receipt of the PRODUCTS.
- 5.2 Ownership of the PRODUCTS, as well as all risks and expenses related to the PRODUCTS, shall be transferred to the DISTRIBUTOR at the point of delivery and in accordance with the arrangements in the aforementioned contract.

6. PAYMENTS

- 6.1 CUBATABACO shall invoice the DISTRIBUTOR for the total price of the PRODUCTS delivered to it.

6.2. Payment shall be made within 15 days following delivery of the PRODUCTS.

7. CLAIMS

7.1 CUBATABACO guarantees that the PRODUCTS shall be of commercial quality.

7.2 The DISTRIBUTOR shall have a reasonable time to examine the PRODUCTS delivered by CUBATABACO to the DISTRIBUTOR in order to determine whether they comply with this Contract.

7.3 This inspection may be undertaken by the DISTRIBUTOR himself, or by an independent expert agreed upon by the PARTIES, if CUBATABACO so requests.

7.4 No claims may be filed by the DISTRIBUTOR against CUBATABACO with regard to any PRODUCT, unless the omission, damage, or defect is attributable to the fault of CUBATABACO, and CUBATABACO has been notified within THIRTY (30) DAYS after the date of arrival at the final destination, but not more than SIXTY (60) DAYS after the date of delivery.

7.5 Subject to clause 7.4 above, in case of non-acceptance of any of the PRODUCTS by the DISTRIBUTOR, CUBATABACO shall replace those products that were unusable, and cancel or reimburse the amount invoiced, as the case may be. Costs incurred for insurance and freight shall be paid by CUBATABACO.

8. INDEMNIFICATIONS AND THE RELATIONSHIP BETWEEN THE PARTIES

8.1 The acts, relationships, and obligations of EACH PARTY vis-à-vis third parties shall be exclusively in the name of and on behalf of the PARTY that initiated the contract.

8.2 To the extent allowed by Law, the DISTRIBUTOR shall hold CUBATABACO harmless and totally indemnify it for any loss or damages suffered by CUBATABACO as a result of any action, claim, or suit filed by any of the DISTRIBUTOR'S clients, brokers, principals, agents, representatives, or sub-distributors with regard to the PRODUCTS, with regard to the interpretation, validity, performance, modification, or termination of this Contract, or for any other reasons related to this Contract.

8.3 The DISTRIBUTOR is not in any way a broker, principal, agent, or representative of CUBATABACO. Whenever the DISTRIBUTOR mentions its relationship with CUBATABACO, the DISTRIBUTOR must clearly state that it is acting as CUBATABACO'S independent distributor, without any authority or powers to bind CUBATABACO or to enter into contracts, in any form or for any reason, on its behalf.

9. COMMERCIAL TRADEMARKS AND OTHER INDUSTRIAL PROPERTY RIGHTS

- 9.1. CUBATABACO hereby authorizes the DISTRIBUTOR (solely during the term of this Contract) to use the COMMERCIAL TRADEMARKS on the PRODUCTS pursuant to the provisions of this Contract. However, CUBATABACO reserves for itself any goodwill, unearned increment, or any other benefit or interest that might arise as a consequence of the use and exploitation of the PRODUCTS and COMMERCIAL TRADEMARKS covered under this Contract.
- 9.2 The DISTRIBUTOR shall not eliminate, alter, or obscure any of the COMMERCIAL TRADEMARKS affixed to or printed on the PRODUCTS or their packages by CUBATABACO, nor combine the COMMERCIAL TRADEMARKS with any of the DISTRIBUTOR'S commercial trademarks, commercial names, or any other marks, figures, or characters, without the prior written consent of CUBATABACO.
- 9.3 The DISTRIBUTOR shall not sell or promote the sale of the PRODUCTS under any mark or commercial name other than the COMMERCIAL TRADEMARKS, nor in any container other than those provided by CUBATABACO, without the prior written consent of CUBATABACO.
- 9.4 The DISTRIBUTOR shall not use the COMMERCIAL TRADEMARKS on anything other than the PRODUCTS.
- 9.5 The DISTRIBUTOR shall not use the COMMERCIAL TRADEMARKS in any context other than as set forth in clause 9.1 above, without first obtaining the written consent of CUBATABACO to do so.
- 9.6 The DISTRIBUTOR shall not do anything, nor help others to do anything, that would or could infringe upon any of the COMMERCIAL TRADEMARKS or other industrial property rights belonging to or used by CUBATABACO on or with regard to the PRODUCTS or other products.
- 9.7 The DISTRIBUTOR shall advise CUBATABACO if it becomes aware of any infringement, apparent infringement, threat of infringement, suits, claims, or actions with regard to any of the COMMERCIAL TRADEMARKS or other industrial property rights owned or used by CUBATABACO.
- 9.8 Within the TERRITORY, the DISTRIBUTOR shall give CUBATABACO all the help that CUBATABACO may reasonably require with regard to anything involving protection of its rights, including assuming a percentage of the costs, to be determined in due time, for any legal action initiated.

- 9.9 CUBATABACO assumes no responsibility for any possible administrative or legal actions that may result from the marketing of trademarks that are not registered by CUBATABACO within the TERRITORY.

10. ADVERTISING

- 10.1 The PARTIES shall analyze and coordinate a campaign to advertise and promote sales of the PRODUCTS by the DISTRIBUTOR within the TERRITORY. The aforementioned campaigns shall be in keeping with the PRODUCTS' high-quality image, and must have the prior approval of CUBATABACO.
- 10.2 Use of the HABANOS logo on any medium created by the DISTRIBUTOR must be authorized in writing by CUBATABACO.

11. RESALE PRICES

- 11.1 Despite the DISTRIBUTOR'S position as an independent distributor of the PRODUCTS within the TERRITORY, in order to safeguard the interests of BOTH PARTIES as well as those of clients and consumers, the DISTRIBUTOR shall do its utmost to set prices for the PRODUCTS to its clients and consumers at reasonable levels, permitting achievement of the goals set forth in clause 3.1.
- 11.2 If the DISTRIBUTOR uses sub-distributors within the TERRITORY, then the above clause must be included in the contracts that it signs with these sub-distributors.

12. TERM

- 12.1 This Contract shall remain in effect for a term of FIVE (5) years from February 1, 2001, and may be tacitly renewed for similar periods unless one party notifies the other of its desire to terminate. Such notification must be served at least 6 months prior to the end of each period.

13. TERMINATION

- 13.1 EACH PARTY has the right to terminate this Contract at any time, via a simple fax notification to the OTHER PARTY, for the following reasons:
- a) non-performance of the obligations in this Contract by the OTHER PARTY,
 - b) insolvency, suspension of payments, bankruptcy, or liquidation of the OTHER PARTY,
 - c) voluntary agreement between the two parties.
- 13.2 BOTH PARTIES may terminate this Contract at any time, via a simple fax notification, if the management, administration, or control of the other party changes in such a way that the business of

[LW11]

that party is conducted by a third party who is an outsider to this Contract.

13.3 Termination of this Contract for any reason shall be without prejudice to the rights and obligations that may arise up to the date of termination. Any claims for indemnification or damages are expressly excluded for termination per se.

13.4 If the DISTRIBUTOR should have any unsold PRODUCTS in inventory at the time this Contract is terminated, or even thereafter, it is authorized to sell these under applicable provisions of this Contract within a reasonable time, to be agreed upon by the PARTIES.

14. INFORMATION

Any technical, commercial or other information provided by either of the parties to the other shall only be used for purposes of this Contract, and shall be considered as confidential, unless such information is in the public domain.

15. TRANSFER

All of the rights, shares, and obligations resulting from or related to this Contract are personally granted to the PARTIES and may not be ceded or transferred to third parties without prior written consent from the OTHER PARTY.

16. INTERPRETATION AND APPLICABLE LAW

Interpretation, validity, performance, amendment, and termination of this Contract shall be governed by Cuban Law. Any disputes or claims that might arise from or with regard to this Contract shall be definitively resolved by the Economics Chamber of the Supreme Court of the Republic of Cuba.

17. FORCE MAJEURE

17.1 If any occurrence or circumstance beyond the PARTIES' control should impede, limit, or delay performance of any of the obligations pursuant to this Contract, then the term for such performance shall be extended for as long as the duration of the occurrence or circumstance that impeded, limited, or delayed such performance.

17.2 The PARTY that cannot perform its contractual obligations due to *force majeure* must immediately notify the OTHER PARTY via telex of the existence and probable duration of this *force majeure*.

[LW12]

- 17.3 If the time period for performance is extended by more than THREE (3) MONTHS, then EACH PARTY shall be entitled to cancel any requests for or deliveries of the PRODUCTS, as well as any other affected obligations. In this case NEITHER PARTY would be entitled to indemnities for damages resulting from such cancellation.
- 17.4 A certification issued by the Chamber of Commerce for the corresponding location shall be conclusive evidence of the existence, duration, and effect of any occurrence or circumstance releasing the parties from liability as described herein.

18. NOTICES

Any notice pursuant to this Contract shall be sent by fax to the OTHER PARTY'S address or fax number, as it appears in this Contract, or to whatever other address or fax number said PARTY has indicated for this purpose. Any notice sent in this manner shall be deemed to have been received on the day after it was transmitted.

19. INTEGRITY AND DIVISION OF THE CONTRACT

- 19.1 This Contract is a complete and integral contract between the PARTIES and replaces any other prior agreement or contract related to the distribution of the PRODUCTS within the TERRITORY. Therefore, any prior agreement or contract is expressly revoked.
- 19.2 Neither PARTY has any rights, nor may it make any claims, related to termination of the agreements or contracts referenced in clause 19.1 above. However, the DISTRIBUTOR shall be obligated to pay for any unpaid PRODUCTS sold or delivered by CUBATABACO.
- 19.3 If any provision of this Contract becomes null or non-performable as a result of any laws that may be applicable to this Contract, then that particular contractual provision shall be omitted and the remaining contractual provisions shall continue in full force and effect. If necessary, this Contract will be considered as amended, to the extent necessary, to give effect to its essence, to the extent possible.

20. WAIVERS AND CHANGES

- 20.1 No waiver of rights by EITHER PARTY for a violation, error, or omission in performance of or compliance with this Contract by the OTHER PARTY shall be valid unless it is in writing and signed by the FIRST PARTY. This waiver shall not apply to, nor be considered as a waiver of, the rights related to any other violation, error, or omission pursuant to this Contract.
- 20.2 A failure or omission by EITHER PARTY in claiming, requiring, suing, or judicially enforcing performance of the obligations

(LW13)

or contractual provisions applicable to the OTHER PARTY, shall not be interpreted as an assignment, waiver, or dismissal of the right to performance of these obligations or enforcement of these provisions.

20.3 No modification or alternation of this Contract shall take effect unless it is agreed upon in writing by the PARTIES and signed by their duly authorized officials.

IN WITNESS WHEREOF, the PARTIES have hereby signed two originals of this Contract in the aforementioned city and on the aforementioned date.

BY AND ON BEHALF OF
CUBATABACO
[signature]

BY AND ON BEHALF OF
THE DISTRIBUTOR
[signatures]

[LW14]

APPENDIX NO. 1 TO THE EXCLUSIVE DISTRIBUTION CONTRACT ENTERED INTO BETWEEN CUBATABACO AND THE DISTRIBUTOR ON THE 10TH DAY OF DECEMBER OF 2000.

BOTH PARTIES agree to the following:

The COMMERCIAL TRADEMARKS referred to in clauses 1.1 and 1.2 of the preceding Exclusive Distribution Contract are as follows:

Throughout the world:

- 1.
- 2.
- 3.
4. Redacted
- 5.

In Cuba:

NAME	Registration No.	Class	Owner
Behique (label)	16987	34	Cubatabaco
Cohiba (label)	123125	34	Cubatabaco
Cohiba	113059	34	Cubatabaco
Edmundo Dantes	119385	34	Cubatabaco
Edmundo Dantes (label)	119385	34	Cubatabaco
La Casa del Habana (design)	118875	34	Cubatabaco
La Perla	112574	34	Cubatabaco
Maria Guerrero	109994	34	Cubatabaco
Quay D'Orsay	370/87	34	Cubatabaco
Trinidad (design)	100673	34	Cubatabaco

IN WITNESS WHEREOF, BOTH PARTIES hereby sign the originals of this Appendix on December 10, 2000.

BY AND ON BEHALF OF
CUBATABACO

BY AND ON BEHALF OF
THE DISTRIBUTOR
[signatures]

P10045

CONTRATO DE DISTRIBUCION EXCLUSIVA

Ciudad de La Habana, a los 10 días del mes de diciembre de 2000.

EMPRESA CUBANA DEL TABACO, denominada en este contrato CUBATABACO, con domicilio en O'Reilly No. 104, La Habana, Cuba, representada por Juan Díaz Tenorio en su carácter de Director, y

CORPORACION HABANOS, Sociedad Anónima, denominada en este contrato el DISTRIBUIDOR con domicilio en Mercadores No.21, La Habana Vieja, Ciudad de La Habana, República de Cuba, representada en este acto por los señores Oscar Basulto y Jaime García-Andrade en su carácter de Co-Presidentes.

EXPONEN

Primero: Que CUBATABACO es titular de los registros de las marcas tabacaleras que se describen en el Anexo No. 1 a este Contrato, en lo adelante las MARCAS.

Segundo: Que los productos que amparan dichas marcas son fabricados por el Grupo Empresarial del Tabaco en virtud del Contrato de Suministro de Tabacos Torcidos suscrito con CUBATABACO.

Tercero: Que el DISTRIBUIDOR es la única entidad cubana que tiene una estructura capaz de llevar a cabo la comercialización internacional de los productos amparados por las MARCAS.

Cuarto: Que es interés de DISTRIBUIDOR comercializar las MARCAS antes mencionadas, razón por la cual han decidido suscribir el presente Contrato.

En virtud de todo lo antes mencionado Ambas Partes

ACUERDAN

1. DEFINICIONES

1.1 Los PRODUCTOS significan los cigarros torcidos hechos en Cuba, conocidos mundialmente como Habanos, para ser vendidos bajo las marcas comerciales descritas en el Anexo No.1, cuyas referencia, cantidades y precios serán pactadas anualmente entre las PARTES.

1.2 Las MARCAS COMERCIALES significan las marcas propiedad de CUBATABACO que son descritas en el antes mencionado Anexo No. 1.

1.3 El TERRITORIO significa todos los países del mundo donde se encuentren disponibles para su comercialización las MARCAS COMERCIALES.

Las partes acuerdan que en caso de cesar el bloqueo impuesto por los EUA a Cuba dentro del periodo de vigencia de este Contrato, negociarán de buena fe la incorporación al mismo del suministro de las marcas con destino a dicho mercado.

2. OTORGAMIENTO

2.1 Como contraprestación por las obligaciones del DISTRIBUIDOR bajo este Contrato CUBATABACO por este medio designa al DISTRIBUIDOR, el que acepta dicha designación, como único y exclusivo distribuidor de CUBATABACO para exportar, distribuir y comercializar los PRODUCTOS en el TERRITORIO.

2.2 El DISTRIBUIDOR podrá otorgar contratos similares para la comercialización de los PRODUCTOS en el TERRITORIO, por lo que todas las obligaciones aquí acordadas serán transmitidas a los correspondientes subdistribuidores.

2.3 CUBATABACO se compromete a suministrar los PRODUCTOS únicamente al DISTRIBUIDOR para su venta en el TERRITORIO, y no a suministrar los PRODUCTOS a los consumidores en el TERRITORIO, a menos que se acuerde lo contrario.

2.4 Al recibo de una solicitud de información u orden de cualquiera para la reventa de PRODUCTOS en el TERRITORIO, CUBATABACO la referirá al DISTRIBUIDOR.

2.5 CUBATABACO se reserva el derecho, dando un aviso razonable al DISTRIBUIDOR, de retirar del Anexo No.1 los cigarros y/o marcas comerciales que CUBATABACO deje de fabricar o vender.

2.6 CUBATABACO prestará al DISTRIBUIDOR toda la asistencia que el DISTRIBUIDOR pueda requerir razonablemente en relación con cualquier interferencia o violación de sus derechos de acuerdo con este Contrato.

2.7 AMBAS PARTES cooperarán recíprocamente hasta colocarse en posición de trabajar más racionalmente e incrementar su eficiencia y competitividad.

3. OBLIGACIONES DEL DISTRIBUIDOR

El DISTRIBUIDOR se obliga a:

3.1 Dentro del TERRITORIO, vigorosamente, diligentemente y en la forma en que lo haría un buen y eficiente vendedor, promover ventas, hacer publicidad y solicitar órdenes para los PRODUCTOS; realizar sus mejores esfuerzos para atraer la atención de los clientes potenciales hacia los PRODUCTOS, visitar los clientes habituales y potenciales con la frecuencia que sea necesaria, con los objetivos de extender y mejorar las ventas de los PRODUCTOS en el TERRITORIO, como

condiciones esenciales a la propia naturaleza de este Contrato. EL DISTRIBUIDOR se obliga cada año a comercializar como mínimo las mismas cantidades distribuidas el año anterior.

3.2 Realizar sus mejores esfuerzos para desarrollar y preservar el buen nombre y la reputación de CUBATABACO, los PRODUCTOS y las MARCAS.

3.3 Mantener los PRODUCTOS permanentemente almacenados a 16 grados Celsius más o menos 2 grados Celsius de temperatura, a 70% más o menos 5% de humedad relativa, con una corriente circulante de aire fresco, de modo que puedan ser entregados con buena calidad para el consumo.

3.4 Por su propia cuenta y riesgo:

a) Obtener todas las autorizaciones, licencia y permisos requeridos por la Ley; b) pagar todos los impuestos, derechos, honorarios y gastos cualesquiera, incluyendo los gastos bancarios; y

c) Cumplir todas las obligaciones impuestas por cualesquiera autoridades, que surjan de o se relacionen con la reventa y/o distribución de los PRODUCTOS en el TERRITORIO.

3.5 Mantener inmediatamente informada a CUBATABACO en cualquier caso necesario y con la frecuencia y momentos razonables en que CUBATABACO pueda solicitar, sobre:

a) todos los acontecimientos o tendencias relacionadas con la evolución de la demanda de los PRODUCTOS, las reacciones de los clientes y/o consumidores;

b) todas las listas de precios emitidas o entregadas por el DISTRIBUIDOR a sus clientes;

c) las actividades de los competidores, la disponibilidad y las características de los productos competitivos;

d) las leyes o disposiciones legales propuestas o dictadas por las autoridades, que puedan afectar este Contrato o la importación, la reventa y/o distribución de los PRODUCTOS;

e) la literatura técnica o comercial tabacalera;

f) problemas de calidad detectados en la comercialización de LOS PRODUCTOS; y

g) otros asuntos o circunstancias relacionadas con este Contrato, dentro del TERRITORIO, en la medida en que dicha información sea razonablemente accesible al DISTRIBUIDOR.

3.6 No buscar clientes, establecer cualquier sucursales, mantener algún depósito o tienda de distribución, hacer publicidad o promover ventas, en relación con los PRODUCTOS con el propósito de venderlos fuera del TERRITORIO, a menos que las PARTES acuerden expresamente lo contrario por escrito.

3.7 No fabricar, vender o distribuir productos que compitan con los PRODUCTOS, a menos que las PARTES acuerden expresamente lo contrario por escrito.

4. CONTRATOS ANUALES DE VENTAS

4.1 Este Contrato no es un contrato de venta de productos específicos; sino únicamente establece las condiciones generales bajo las cuales serán otorgados contratos de venta anuales entre las PARTES.

4.2 Las PARTES otorgarán dichos contratos individuales de venta de cada año para pagar, entre otros, las marcas comerciales, nombres comerciales, vitolas, cantidades, plazos de entrega, moneda de pago y condiciones de entrega de los PRODUCTOS que serán entregados por CUBATABACO al DISTRIBUIDOR dentro del mismo o del siguiente año calendario. Los precios serán aquellos que aparezcan en la última lista de precios publicada o entregada por CUBATABACO al DISTRIBUIDOR, a menos que se acuerde expresamente lo contrario.

Las órdenes por vitolas, cantidades y plazos de entrega especificados serán pagadas con la condición de ser confirmadas posteriormente por CUBATABACO.

4.3. Los contratos anuales de venta serán formalizados por escrito o por un simple intercambio de fax contentivo de los pedidos y sus confirmaciones. Ninguna orden será válida salvo que sea confirmada por escrito o por aviso por fax.

5. - ENTREGAS

5.1 En virtud de lo previsto en el Contrato de Suministro suscrito entre Cubatabaco, y el Grupo Empresarial de Tabaco, la entrega de LOS PRODUCTOS será realizada directamente por el Grupo de Empresas del Tabaco al DISTRIBUIDOR, por lo que a tales efectos el DISTRIBUIDOR se subroga en lugar y grado de CUBATABACO en todos los derechos y obligaciones derivados de dicho contrato, en relación con la entrega y recepción de los PRODUCTOS.

5.2 La propiedad de los PRODUCTOS y todos los riesgos y gastos con relación a los PRODUCTOS serán traspasados al DISTRIBUIDOR según el lugar donde se realice la entrega de los mismos de acuerdo a lo establecido en el contrato antes mencionado.

6. - PAGOS

6.1. CUBATABACO facturará al DISTRIBUIDOR por el precio total de los PRODUCTOS entregados a éste.

6.2. El pago se realizará dentro de los 15 días siguientes a la entrega de los PRODUCTOS.

7. RECLAMACIONES

7.1 CUBATABACO garantiza que los PRODUCTOS serán de calidad mercantil.

7.2 El DISTRIBUIDOR recibirá una oportunidad razonable para examinar los PRODUCTOS entregados por CUBATABACO al DISTRIBUIDOR, a fin de determinar si están en conformidad con este Contrato.

7.3 Dicha inspección puede ser realizada por el propio DISTRIBUIDOR o, si lo solicitare CUBATABACO por un perito independiente acordado por las PARTES.

7.4 Ninguna reclamación podrá ser establecida por el DISTRIBUIDOR contra CUBATABACO con respecto a PRODUCTO alguno a menos que el faltante, el daño o el defecto sea debido a la culpa de CUBATABACO y CUBATABACO sea notificada dentro de los TREINTA (30) DIAS a partir de la fecha de arribo a su destino final pero no más de SESENTA (60) DIAS a partir de la fecha de entrega.

7.5 Sujeto a la cláusula 7.4 anterior, en caso de no aceptación de cualesquiera PRODUCTOS por el DISTRIBUIDOR, CUBATABACO sustituirá aquellos inadecuados para el consumo, cancelará o reembolsará la suma facturada según sea el caso. Los gastos incurridos por seguros y fletes serán pagados por CUBATABACO.

8. INDEMNIZACION Y RELACIONES ENTRE LAS PARTES

8.1 Los actos, relaciones y obligaciones de CADA PARTE con terceros serán exclusivamente a nombre y por cuenta de la PARTE que los realizó o contrajo.

8.2 En la medida en que la Ley lo permita, el DISTRIBUIDOR mantendrá a CUBATABACO a salvo y totalmente indemnizada por cualquier pérdida o daño sufrido por CUBATABACO como resultado de cualquier acción, reclamación o demanda establecida por cualquier cliente, corredor, mandatario, agente, representante o subdistribuidor del DISTRIBUIDOR en relación con los PRODUCTOS o con la interpretación, validez, cumplimiento, modificación o terminación de este Contrato, o por cualquier otra causa o razón relacionada con este Contrato.

8.3 El DISTRIBUIDOR no es el corredor, mandatario, agente o representante de CUBATABACO para ningún propósito cualquiera que sea, y siempre que el DISTRIBUIDOR se refiera a sus relaciones con CUBATABACO el DISTRIBUIDOR claramente expresará su capacidad como distribuidor independiente de CUBATABACO sin autoridad o poder para obligar a CUBATABACO ni para contratar a nombre de, ni en ninguna forma ni para ningún propósito.

9. MARCAS COMERCIALES Y OTROS DERECHOS DE PROPIEDAD INDUSTRIAL

9.1 CUBATABACO por este medio autoriza al DISTRIBUIDOR, únicamente durante la vigencia de este Contrato, para usar las MARCAS COMERCIALES en relación con los PRODUCTOS, de acuerdo con lo estipulado en este Contrato. Sin embargo, CUBATABACO se reserva el "goodwill" o plusvalía y cualquier otro beneficio o interés que pueda surgir a consecuencia del uso y explotación de los PRODUCTOS y MARCAS COMERCIALES pactados en este Contrato.

9.2 El DISTRIBUIDOR no eliminará, alterará u ocultará ninguna de las MARCAS COMERCIALES fijadas o impresas en los PRODUCTOS o en su envase por CUBATABACO ni combinará las MARCAS COMERCIALES con alguna de las marcas comerciales, nombres comerciales u otra marca, figura o carácter del DISTRIBUIDOR, sin el previo consentimiento por escrito de CUBATABACO.

9.3 El DISTRIBUIDOR no venderá ni promoverá la venta de los PRODUCTOS bajo cualquier otra marca o nombre comercial distinto a las MARCAS COMERCIALES o dentro de cualquier otro envase distinto al suministrado por CUBATABACO sin el previo consentimiento escrito de CUBATABACO.

9.4 El DISTRIBUIDOR no utilizará las MARCAS COMERCIALES en relación con otros productos distintos a los PRODUCTOS.

9.5 Salvo lo establecido en la cláusula 9.1 anterior, el DISTRIBUIDOR no utilizará las MARCAS COMERCIALES en ningún otro contexto, a menos que haya obtenido primero el consentimiento escrito de CUBATABACO para tal uso.

9.6 El DISTRIBUIDOR no hará nada ni asistirá a otros a hacer algo que infringiera o pudiera infringir cualquiera de las MARCAS COMERCIALES u otros derechos de la propiedad industrial bajo el dominio o utilizados por CUBATABACO en o en relación con los PRODUCTOS u otros productos.

9.7 El DISTRIBUIDOR avisará a CUBATABACO de cualquier infracción, infracción aparente o amenaza de infracción contra, o de cualquier acción, reclamación o demanda en relación con cualquiera de las MARCAS COMERCIALES u otros derechos de la propiedad industrial bajo el dominio o utilizados por CUBATABACO de los cuales el DISTRIBUIDOR tenga conocimiento.

9.8 El DISTRIBUIDOR prestará a CUBATABACO en el TERRITORIO toda la asistencia que CUBATABACO pueda razonablemente requerir en relación con cualquiera de dichos asuntos para la protección de sus derechos, incluyendo la asunción de los gastos que se deriven de cualquiera acción judicial a iniciar, en el por ciento que se determine oportunamente.

9.9. CUBATABACO no se responsabiliza con las posibles acciones administrativas o judiciales que se puedan derivar de la comercialización de las marcas no registradas en el TERRITORIO por CUBATABACO.

10. PUBLICIDAD

10.1 Las PARTES analizarán y coordinarán la campaña de publicidad y promoción de ventas de los PRODUCTOS que será realizada por el DISTRIBUIDOR dentro del TERRITORIO. Las campañas antes mencionadas serán realizadas de conformidad con la imagen de alta calidad de los PRODUCTOS, previa aprobación de CUBATABACO

10.2 La utilización del logo de HABANOS, en cualquier soporte a crear por el DISTRIBUIDOR será autorizada de forma escrita de CUBATABACO

11. PRECIOS DE REVENTA

11.1 A pesar de la posición del DISTRIBUIDOR como el distribuidor independiente de los PRODUCTOS dentro del TERRITORIO, con objeto de preservar los intereses de AMBAS PARTES y aún los de los clientes y consumidores, el DISTRIBUIDOR realizará sus mejores esfuerzos para fijar los precios de los PRODUCTOS a sus clientes y consumidores a niveles razonables que permitan alcanzar los objetivos establecidos en la cláusula 3.1.

11.2. Si el DISTRIBUIDOR contase con subdistribuidores para el TERRITORIO incluirá la cláusula anterior en los contratos que pactare con dichos subdistribuidores.

12. VIGENCIA

12.1 Este Contrato estará en vigor por un plazo de CINCO (5) años a partir del 1 de febrero de 2001, contados a partir del 1ro. de febrero de 2001 y podrá renovarse tácitamente por periodos similares, si una parte no le manifiesta a la otra su deseo de terminarlo con 6 meses de antelación a la terminación de cada periodo.

13. TERMINACION

13.1 CADA PARTE tiene el derecho a terminar este Contrato, en cualquier momento, cursando un simple aviso por fax a la OTRA PARTE, por cualquiera de las siguientes razones:

- a) el incumplimiento de las obligaciones de este Contrato por la OTRA PARTE,
- b) la insolvencia, suspensión de pagos, quiebra o liquidación de la OTRA PARTE, o por,
- c) Acuerdo voluntario de ambas partes.

13.2 AMBAS PARTES pueden terminar este Contrato, en cualquier momento, cursando un simple aviso por fax, si hubiere algún cambio en la dirección, la

administración o el control de la otra parte, de modo que los asuntos de éste puedan ser conducidos de acuerdo con la voluntad de una tercera persona ajena a este Contrato.

13.3 La terminación de este Contrato, por cualquier causa, será sin perjuicio de los derechos y obligaciones surgidos hasta su fecha de terminación, quedando expresamente excluida cualquier reclamación de indemnización en daños y perjuicios por la terminación propiamente dicha.

13.4 Si el DISTRIBUIDOR tuviere en inventario algunos PRODUCTOS no vendidos en la fecha de terminación de este Contrato o aún después, estará autorizado para venderlos bajo las disposiciones de este Contrato que fueren de aplicación, dentro de un plazo razonable que será acordado por las PARTES.

14. INFORMACION

La información técnica, comercial u otra proveída por cualquiera de las partes a la otra será usada solo a los propósitos de este contrato, y será considerada como confidencial salvo que la misma sea de dominio público.

15. TRASPASO

Todos los derechos, acciones y obligaciones resultantes de o relacionados con este Contrato, son personalmente atribuidos a las PARTES y no pueden ser cedidos o traspasados a terceros sin el previo consentimiento escrito de la OTRA PARTE.

16. INTERPRETACION Y DERECHO APLICABLE

La interpretación, validez, cumplimiento, modificación y terminación de este Contrato serán regidos por las leyes cubanas; y cualquier disputa o reclamación que pueda surgir de, o en relación con este Contrato, será resuelta definitivamente ante la Sala de lo Económico del Tribunal Supremo de la República de Cuba.

17. FUERZA MAYOR

17.1 Si cualquier hecho o circunstancia ajena al control de las PARTES impidiera, limitara o demorara el cumplimiento de cualquiera de sus obligaciones en virtud de este Contrato, el plazo para dicho cumplimiento será prorrogado por tanto tiempo como el referido hecho o circunstancia haya impedido, limitado o demorado el cumplimiento.

17.2 La PARTE que no pueda cumplir con sus obligaciones contractuales debido a fuerza mayor, deberá avisar inmediatamente por telex a la OTRA PARTE sobre la existencia y duración probable de la fuerza mayor.

17.3 Si el plazo de cumplimiento fuere prorrogado por más de TRES (3) MESES, CADA PARTE estará facultada para cancelar cualquier solicitud o entrega de los PRODUCTOS u otra obligación afectada; pero el Contrato permanecerá en pleno vigor y efectos. En este caso, NINGUNA PARTE tendrá derecho a indemnización por cualquier daño o perjuicio proveniente de dicha cancelación.

17.4 Una certificación emitida por la Cámara de Comercio del lugar correspondiente, será prueba concluyente de la existencia, duración y efectos de cualquier hecho o circunstancia eximente de responsabilidad aquí descrito.

18. AVISOS

Cualquier aviso en virtud de este Contrato será enviado por fax a la dirección o número de fax de la OTRA PARTE según aparece en este Contrato o a la otra dirección o número de fax que dicha PARTE haya notificado para este fin. Cualquier aviso enviado por este medio será considerado como cursado al día siguiente de su transmisión.

19. INTEGRIDAD Y DIVISION DEL CCNTRATO

19.1 Este contrato representa un Contrato completo e integro entre LAS PARTES y sustituye cualquier acuerdo o contrato anterior relacionado con la distribución de LOS PRODUCTOS en EL TERRITORIO. Por lo tanto, cualquier acuerdo o contrato anterior queda expresamente revocado.

19.2 Ninguna parte tendrá ningún derecho ni realizará ninguna reclamación relacionada con la terminación de los acuerdos o contratos referidos en la cláusula 19.1 anterior, salvo que EL DISTRIBUIDOR quede obligado al pago de cualquier producto vendido o entregado por CUBATABACO, y todavía no pagado.

19.3 En caso que cualquier estipulación de este Contrato sea nula o no ejecutable por razón de cualquier Ley que afecte este Contrato, la estipulación contractual específica será omitida, y las restantes estipulaciones contractuales mantendrán su pleno vigor y efecto y, si fuere necesario, este Contrato será considerado como enmendado en la extensión necesaria para dar efecto a la esencia de éste en la medida de lo posible.

20. DESISTIMIENTO Y VARIACION

20.1 Ninguna renuncia de derechos por CUALQUIER PARTE por la infracción, falta u omisión en el cumplimiento u observancia del presente Contrato por la OTRA PARTE será válida, a menos que sea por escrito, firmado por la PRIMERA PARTE antes mencionada; y dicha renuncia no será aplicada a, o considerada como una renuncia de derechos por cualquier otra infracción, falta u omisión en virtud de este Contrato.

20.2 La falta u omisión por CUALQUIER PARTE en reclamar, requerir, demandar o ejecutar judicialmente, en cualquier momento, el cumplimiento de las obligaciones o

estipulaciones contractuales a cargo de la OTRA PARTE, no será interpretada como una cesión, renuncia o desistimiento del derecho al cumplimiento de dichas obligaciones o estipulaciones.

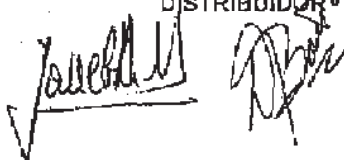
20.3 Ninguna modificación o alteración de este Contrato tendrá efecto a menos que la misma sea acordada por escrito entre las PARTES y firmada por funcionarios debidamente autorizados

Y COMO CONSTANCIA, LAS PARTES han firmado en este acto dos originales del presente Contrato en la Ciudad y fecha arriba indicados,

POR Y A NOMBRE DE
CUBATABACO



POR Y A NOMBRE DEL
DISTRIBUIDOR



ANEXO NO.1 AL CONTRATO DE DISTRIBUCION EXCLUSIVA OTORGADO POR CUBATABACO Y EL DISTRIBUIDOR A LOS 10 DIAS DEL MES DE DICIEMBRE DE 2000.

AMBAS PARTES acuerdan lo siguiente:

Las **MARCAS COMERCIALES** a que se refieren las cláusulas 1.1 y 1.2 del Contrato de Distribución Exclusiva precedentemente expresado son las siguientes:

En todo el mundo:

- 1.
- 2.
3. REDACTED
- 4.
- 5.

En Cuba:

DENOMINACION	NO. REGISTRO	Clase	Titular
Behique (etiqueta)	36987	34	Cubatabaco
Cohiba (etiqueta)	123125	34	Cubatabaco
Cohiba	111 059	34	Cubatabaco
Edmundo Dantes	119385	34	Cubatabaco
Edmundo Dantes (etiqueta)	119385	34	Cubatabaco
La Casa del Habano (Diseño)	116875	34	Cubatabaco
La Perla	112574	34	Cubatabaco
María Guerrero	109994	34	Cubatabaco
Quai D'Orsay	370/87	34	Cubatabaco
Trinidad (Diseño)	100673	34	Cubatabaco

Y COMO CONSTANCIA, AMBAS PARTES por este medio han firmado los originales de este Anexo el 10 de diciembre de 2000.

**POR Y A NOMBRE DE
CUBATABACO**

**POR Y A NOMBRE DEL
DISTRIBUIDOR**

DECLARATION OF TRANSLATION OF
DEFENDANTS'S DEPOSITION EXHIBIT 114C

Debra Evenson declares under penalty of perjury under the laws of the United States that the following is true and correct:

1. I am a lawyer, licensed to practice law in the State of New York, and am of counsel to the law firm of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. I was professor of law at DePaul University School of Law from 1980-1993 where I taught comparative international law. I am fluent in the Spanish language.

2. I translated the document identified as Defendant's Deposition Exhibit 114C from the original Spanish into English. I attach hereto a copy of the original document in Spanish and the translation thereof which is a true and correct translation into English.

Signed this 22nd day of February of 2003


DEBRA EVENSON

ANEXO NO.1 AL CONTRATO DE DISTRIBUCION EXCLUSIVA OTORGADO POR CUBATABACO Y EL DISTRIBUIDOR A LOS 10 DIAS DEL MES DE DICIEMBRE DE 2000.

AMBAS PARTES acuerdan lo siguiente:

Las **MARCAS COMERCIALES** a que se refieren las cláusulas 1.1 y 1.2 del Contrato de Distribución Exclusiva precedentemente expresado son las siguientes:

En todo el mundo:

1. La Corona
2. Jabañas
3. El Rey del Mundo
4. Sancho Panza
5. Flor de Rafael González

En Cuba:

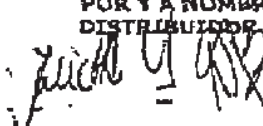
DENOMINACION	NO. REGISTRO	Clase	Titular
Belique (etiqueta)	36987	34	Cubatabaco
Coriba (etiqueta)	123125	34	Cubatabaco
Coriba	111 059	34	Cubatabaco
Edmundo Dantes	119385	34	Cubatabaco
Edmundo Dantes (etiqueta)	119385	34	Cubatabaco
La casa del Habano (Diseño)	118879	34	Cubatabaco
La feria	112574	34	Cubatabaco
Maria Guerrero	109994	34	Cubatabaco
Quei D'Orsay	370/87	34	Cubatabaco
Trinidad (Diseño)	100673	34	Cubatabaco

Y COMO CONSTANCIA, AMBAS PARTES por este medio han firmado los originales de este Anexo el 10 de diciembre de 2000.

POR Y A NOMBRE DE CUBATABACO



POR Y A NOMBRE DEL DISTRIBUIDOR



FOR MORGAN & FURZMAN
KYTS ONLY
UNDER COURT ORDER

CONFIDENTIAL UNDER
PROTECTIVE ORDER

P10294

DEFENDANT'S
DEPOSITION
EXHIBIT
114C
2/12/01 AA

ADDENDUM NO. 1 TO THE CONTRACT OF EXCLUSIVE DISTRIBUTION
AGREED TO BY CUBATABACO AND THE DISTRIBUTOR ON THE 10TH DAY OF
DECEMBER OF 2000.

BOTH PARTIES agree to the following:

THE COMMERCIAL TRADEMARKS referred to the clauses 1.1 and 1.2 of the
Contract of Exclusive Distribution previously set forth are the following:

In the world:

1. La Corona
2. Cabañas
3. El Rey del Mundo
4. Sancho Panza
5. Flor de Rafael González

In Cuba:

DENOMINATION	NO. REGISTRATION	Class	Owner
Behique (label)	36987	34	Cubatabaco
Cohiba (label)	123125	34	Cubatabaco
Cohiba	111 059	34	Cubatabaco
Edmundo Dantes	119385	34	Cubatabaco
Edmundo Dantes (label)	119875	34	Cubatabaco
La Casa del Habano (design)	118875	34	Cubatabaco
La Perla	112574	34	Cubatabaco
María Guerrero	109994	34	Cubatabaco
Quai D'Orsay	370787	34	Cubatabaco
Trinidad (Design)	100673	34	Cubatabaco

AND IN WITNESS THEREOF, BOTH PARTIES have signed the originals of this
Addendum on the 10th of December of 2000.

FOR AND IN THE NAME OF
CUBATABACO
[signature]

FOR AND IN THE NAME OF
DISTRIBUTOR
[signature]

P10294

DECLARATION OF TRANSLATION OF
DEFENDANT'S DEPOSITION EXHIBIT 116

Debra Evenson declares under penalty of perjury under the laws of the United States that the following is true and correct:

1. I am a lawyer, licensed to practice law in the State of New York, and am of counsel to the law firm of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. I was professor of law at DePaul University School of Law from 1980-1993 where I taught comparative international law. I am fluent in the Spanish language.

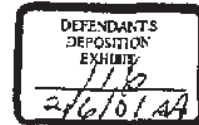
2. I translated the document identified as Defendant's Deposition Exhibit 116 from the original Spanish into English. I attach hereto a copy of the original document in Spanish and the translation thereof which is a true and correct translation into English.

Signed this 22nd day of February of 2003


DEBRA EVENSON

CONTRATO DE SUMINISTRO DE TABACO TORCIDO

En La Habana, a los 10 días del mes de diciembre de 2000.



REUNIDOS:

D. Oscar Basulto, en nombre y representación de Grupo Empresarial del Tabaco (TABACUBA), con domicilio en La Habana, Avenida Independencia y Conil, Plaza de la Revolución, en adelante el SUMINISTRADOR.

D. Juan Díaz Tenorio, en nombre y representación de Cubatabaco, empresa estatal con domicilio en O'Reilly 104, La Habana Vieja, en lo adelante el COMPRADOR.

EXPONEN:

PRIMERO: Que el SUMINISTRADOR es titular, centraliza y dirige las empresas agrícolas, industriales del sector tabaquero cubano cuyo objeto es la producción y fabricación de tabacos torcidos en lo adelante EL PRODUCTO.

SEGUNDO: Que el SUMINISTRADOR tiene celebrados contratos con las empresas agrícolas para la compra de toda la rama producida en Cuba y a su vez tiene suscritos contratos con las empresas industriales para la fabricación y venta de los PRODUCTOS.

TERCERO: Que el COMPRADOR es titular de las marcas que se describen en el Anexo 1 a este Contrato, en lo adelante las MARCAS.

CUARTO: Que las empresas industriales tienen la capacidad y experiencia necesarias para la fabricación y suministro de los PRODUCTOS en cantidades, calidades, fechas de entregas y marcas establecidas por el COMPRADOR.

QUINTO: Que en igual fecha CUBATABACO ha suscrito con CORPORACION HABANOS, S.A. un Contrato de Distribución en Exclusiva, para la comercialización mundial de los PRODUCTOS bajo las MARCAS descritas en el Anexo 1.

Que en fase a lo anterior, las partes han decidido celebrar este contrato de suministro en exclusiva de los PRODUCTOS y de financiación, para lo cual

ACUERDAN:

TITULO I
Disposiciones generales

PRIMERO: Objeto del Contrato.

- 1.1. La compra de tabaco torcido (puros) de cualquier tamaño, formato y vitola bajo las marcas del COMPRADOR para la exportación y para el mercado interno en divisas de Cuba que el SUMINISTRADOR entregará al COMPRADOR conforme a las cláusulas y anexos que se reflejan a continuación y sus sucesivas revisiones anuales.

- 1.2. En caso de cesar el bloqueo impuesto por los EIA a Cuba dentro del periodo de vigencia de este Contrato, las Partes negociarán de buena fe la incorporación al mismo del suministro de las marcas con destino a dicho mercado.

SEGUNDO: Duración del Contrato.

El presente Contrato tendrá la duración de 5 años, contados a partir del 1ro. de febrero de 2001 y podrá renovarse idénticamente por periodos similares, si una parte no le manifiesta a la otra su deseo de terminarlo con 6 meses de antelación a la terminación de cada periodo.

TITULO II

Disposiciones en relación con el suministro en exclusiva de tabaco torcido

TERCERO: Obligaciones generales de las partes

a) Del SUMINISTRADOR

1. Fabricar los productos en las cantidades, calidades, fechas de entregas y precios, de acuerdo con los términos y condiciones generales y particulares pactados anualmente por las partes.
2. Suministrar al COMPRADOR dicha producción procedente de sus instalaciones presentes y futuras.
3. Establecer conjuntamente con el COMPRADOR los métodos, controles y procedimientos necesarios para que los productos, incluidos los rechazos y rezagos, no puedan ser vendidos salvo en el mercado interno en pesos cubanos, sin sellos o marcas de HABANOS, ni otros elementos identificativos de los PRODUCTOS.
4. Entregar los PRODUCTOS según el cronograma establecido en los anexos anuados a este Contrato.
5. Custodiar diligentemente las habilitaciones, envases, precintos, moldes, troqueles, sellos y cualquier otros insumos y útiles de producción que configuran el producto final.
6. Garantizar que las empresas de ella dependientes, y las que les sucedan, actuarán de tal forma que permitan el cumplimiento de las obligaciones adquiridas por virtud del presente Contrato.
7. Garantizar la producción y entrega de los PRODUCTOS al COMPRADOR para su exportación y para el mercado interno en divisas.
8. Informar al COMPRADOR de la composición y fórmulas de los torcidos que habitualmente se elaboran y definir conjuntamente con el COMPRADOR las mejoras de los productos así como la definición de cualquier nuevo producto.

b) Del COMPRADOR

1. Aceptar y pagar los productos suministrados de conformidad con los términos y condiciones pactados.
2. Autorizar la fabricación de los productos por las empresas industriales bajo las marcas de su propiedad y a los únicos efectos de este contrato, y de conformidad con sus pedidos establecidos anualmente mediante los anexos correspondientes.

CUARTO: Detalle de las Operaciones.

Las operaciones de fabricación y entrega que pacten las partes anualmente se reflejarán mediante Anexos que quedarán unidos a este Contrato como parte integrante del mismo, los cuales serán suscritos igualmente por ambas partes, y en los que constará la cantidad, el tamaño, el formato, la vida, las marcas, el precio, los plazos de entrega y demás circunstancias particulares que se acuerden.

QUINTO: Precios y condiciones de pago.

El precio de la mercancía acordado entre las partes y el importe de cada factura será expresado en dólares USA.

Los precios para cada clase de productos serán fijados y acordados anualmente, y se detallarán en el anexo anual correspondiente.

No obstante lo anterior se establecen como precios, para el año 2000 y hasta el año 2003 incluido, los establecidos en Anexo II a este Contrato.

Para años sucesivos, posteriores al año 2003 los precios de compra se establecerán en función de los precios del año anterior referencia a referencia, pudiendo ser modificados individualmente por acuerdo entre las partes.

El pago del valor de los productos que se entreguen se efectuará a los 15 días de la fecha de la recibida notificada en la factura según el procedimiento que se establece en el acuerdo vigésimo posterior.

SEXTO: Entrega de la mercancía.

El lugar de entrega será el almacén del SUMINISTRADOR o del COMPRADOR en dependencia de quién transporte la mercancía y se considerará como fecha de entrega la de recibida de la mercancía que conste en cada factura.

EL COMPRADOR se obliga a recoger la mercancía dentro de los 3 días hábiles siguientes, contados a partir de la fecha de haber recibido la comunicación escrita de la disponibilidad de la mercancía, siempre y cuando la misma este dentro de las cantidades pactadas para el mes en curso o acordadas entre LAS PARTES.

El horario de entrega de los productos en el almacén del SUMINISTRADOR es de lunes a viernes de 7:30 a.m. a 3:30 p.m. y el horario de entrega en el almacén del COMPRADOR será de lunes a jueves de 7:30 pm a 4:00 pm y viernes de 7:30 pm a 3:00 pm.

En los casos que el COMPRADOR no recoja la mercancía en el almacén del SUMINISTRADOR en el término establecido, este podrá revertir en su contra por los daños y perjuicios producidos.

Los gastos de estadía u otros en que incurra el SUMINISTRADOR cuando el transporte con la mercancía llegue dentro del horario acordado y no fuera descargado, será por cuenta del COMPRADOR. Las partes acordarán oportunamente el flujo de tonelaje a descargar por almacén día, según plan trimestral.

SEPTIMO: Transporte de los productos.

El transporte de los productos desde el almacén del SUMINISTRADOR hasta el almacén del COMPRADOR será como sigue:

- En el caso de las empresas ubicadas en la Ciudad de La Habana, se gestionará y en su caso se contratará por el COMPRADOR. Los gastos de transporte, seguro y demás inherentes al cumplimiento de esta obligación serán por cuenta del COMPRADOR.
- En el caso de las empresas ubicadas fuera de la Ciudad de La Habana, se gestionará y en su caso se contratará por el SUMINISTRADOR. Los gastos de transporte, seguro y demás inherentes al cumplimiento de esta obligación serán por cuenta del COMPRADOR de acuerdo a tarifas pactadas anualmente por las partes, garantizando el SUMINISTRADOR que el transporte se realice de acuerdo a las normas vigentes para este tipo de producto.

En los casos que el COMPRADOR se dirija a los almacenes del SUMINISTRADOR en busca de mercancías, previa notificación de disponibilidad del SUMINISTRADOR, y no se encuentren entre

las cantidades mínimas acordadas, el COMPRADOR tendrá el derecho de revertir contra el SUMINISTRADOR por los gastos en que por este concepto se hayan incurrido.

La parte que contrate el transporte tendrá a su cargo la obligación de establecer las correspondientes reclamaciones al transportista.

El COMPRADOR se reserva la posibilidad de hacerse cargo de la gestión de todo el transporte de los productos en el momento en que la evolución de su negocio así lo aconseje.

OCTAVO: Fabricación, Envase, embalaje, marcaje, etiquetado, peso y dimensiones

El SUMINISTRADOR acepta fabricar los productos cumpliendo con las especificaciones establecidas en el Anexo III del presente Contrato (será adjuntado una vez recopiladas todas las normas); si el SUMINISTRADOR necesitara modificar el proceso de fabricación en función de determinadas condiciones del mercado y a otras externas al mismo, el COMPRADOR deberá aprobar tales modificaciones; El SUMINISTRADOR no podrá hacer modificaciones en el proceso de fabricación o de materiales que cambien sustancialmente la calidad, trabajo humano, presentación, sabor o aroma de los Productos sin previo consentimiento por escrito del COMPRADOR.

El SUMINISTRADOR entregará los productos contratados en los envases y embalajes, así como los marcajes, etiquetados, pesos y dimensiones, contenidas en las Normas de Especificación de Calidad de Tabaco Torcido que se recogen en el Anexo III de este Contrato.

El COMPRADOR rechazará aquellos productos que han sido envasados sin cumplir estrictamente la norma existente para cada surtido y podrá inspeccionar en todo momento el proceso de producción.

NOVENO: Recepción de los Productos

La inspección de los productos entregados se realizará en el almacén del COMPRADOR según normativa internacional cuyo procedimiento y contenido se adjunta en el Anexo IV de este Contrato.

El COMPRADOR dispondrá de un término de 15 días hábiles contados a partir de la fecha de entrega para inspeccionar los productos entregados.

El valor de las entregas rechazadas se deducirá de la factura inmediata siguiente.

DÉCIMO: Calidad

Cuando el COMPRADOR considere que exista algún parámetro de calidad que deba ser discutido con el SUMINISTRADOR, le enviará una notificación al respecto y éste a su vez se obliga a responder al COMPRADOR en un término de 6 días hábiles, contados a partir del día en que recibió la notificación. De no presentarse el SUMINISTRADOR o su representante, el COMPRADOR se abroga el derecho de revertir en su contra por los gastos incurridos. Todo el procedimiento antes descrito deberá realizarse dentro del término de 30 días fijado en el acuerdo 22 siguiente.

El COMPRADOR emitirá Informe de Recepción definitivo.

Todo rechazo será propiedad del COMPRADOR sin que éste satisfaga importe alguno al SUMINISTRADOR quedando en depósito en las almacenes del COMPRADOR.

El COMPRADOR decidirá el destino gestionando las sucesivas situaciones en las que la mercancía rechazada se vaya encontrando hasta dicho destino.

El valor de realización de la mercancía rechazada que obtenga el COMPRADOR será, una vez descontados los costes incurridos para dicha realización, el importe a satisfacer finalmente el SUMINISTRADOR.

El SUMINISTRADOR será informado de todo ello por el COMPRADOR.

El SUMINISTRADOR aceptará como bueno a todos los efectos legales los rechazos ejecutados por el COMPRADOR, independientemente de que este último haya o no efectuado inspecciones de calidad durante las fases del proceso productivo.

En caso de rechazo total o parcial de la mercancía, el COMPRADOR podrá optar porque le sea repuesta la misma sin costo adicional o cancelar la entrega correspondiente sin perjuicio de lo previsto anteriormente en este acuerdo.

El SUMINISTRADOR aceptará como bueno a todos los efectos legales los rechazos ejecutados por el COMPRADOR independientemente de que este último no haya efectuado inspecciones de calidad durante las fases del proceso productivo.

DÉCIMOPRIMERO: Reclamaciones.

Las reclamaciones por calidad, deberán ser notificadas por escrito dentro de los 30 días siguientes contados a partir de la entrega de los productos por el SUMINISTRADOR, cuando el incumplimiento sea aparente o comprobable dentro de territorio nacional llegando hasta 35 días cuando sea necesario revisar la totalidad de la mercancía, o dentro de los 50 días siguientes a la fecha de la reclamación del cliente extranjero al COMPRADOR cuando el incumplimiento no sea aparente o comprobable en territorio nacional, sin que en ningún caso pueda exceder de 6 meses a partir de la fecha de la recepción del producto en el territorio nacional.

Cualesquiera otras reclamaciones por concepto distinto a la calidad deberán ser notificadas por escrito dentro de los 30 días siguientes contados a partir de la entrega de los productos por el SUMINISTRADOR.

En el supuesto de retraso en las entregas por más de 15 días, independientemente del derecho del COMPRADOR a reclamar daños y perjuicios al SUMINISTRADOR, vendrá obligado a pagar una sanción pecuniaria de hasta el 8% del valor equivalente de la entrega según la siguiente escala:

<u>Período</u>	<u>Sanción</u>
Entre 16 y 30 días	4%
Entre 31 y 45 días	6%
Más de 45 días	8%

DÉCIMOSEGUNDO: Confidencialidad.

12.1.- Ambas partes reconocen que toda la información comercial, técnica o de otra naturaleza (inclusive junto a otras las formulas del producto y otras Especificaciones, el origen de los componentes de las formulaciones de los productos y otros secretos empresariales) conocidos o que devengan conocidos por el SUMINISTRADOR por este contrato (la "información confidencial") es confidencial y tiene un valor económico. El SUMINISTRADOR y EL COMPRADOR mantendrán la información confidencial en la más estricta confidencialidad y no la usarán para otros fines diferentes que el de la ejecución de este contrato.

12.2.- Las estipulaciones descritas mas arriba continuarán no obstante se produzca la resolución o terminación de este contrato y se mantendrán en efecto mientras el SUMINISTRADOR y el COMPRADOR tenga cualquier información confidencial.

DÉCIMOTERCERO: Marcas.

13.1.- Por virtud de este contrato, no se concede derecho o licencia alguna al SUMINISTRADOR en relación con cualesquiera marcas, modelos de utilidad u otros derechos de propiedad industrial necesarios para el proceso de fabricación. A tales efectos las antillas, habilitación, troqueles, fotolitos, moldes para realizar troqueles, envases, selos de garantía que son propiedad del COMPRADOR deberán estar estrictamente custodiados por el SUMINISTRADOR estableciendo los controles necesarios que deberán ser aprobados por el COMPRADOR, para evitar cualquier uso indebido de los mismos en perjuicio de la exclusividad del suministro del tabaco torcido establecido en virtud de este Contrato.

13.2.- El SUMINISTRADOR reconoce que no tiene derecho ni interés en ninguna marca utilizada en el proceso de fabricación. El SUMINISTRADOR no hará uso de ninguna marca ni durante ni después del plazo de duración de este contrato sin el previo consentimiento por escrito del COMPRADOR y no pretenderá ni el registro ni la reclamación de derechos sobre cualquier Marca en ningún lugar de origen. El SUMINISTRADOR no recurrirá la validez de cualquier Marca y no hará y se abstendrá de hacer cualquier acto perjudicial para el valor de cualquier Marca. El SUMINISTRADOR comunicará al COMPRADOR cualquier infracción o pretendida infracción de cualquier Marca de la que el SUMINISTRADOR tenga conocimiento y reconoce que un incumplimiento de esta Sección podría causar un daño irreparable al COMPRADOR por lo que la reparación monetaria aparece como inadecuada. Por tanto, el SUMINISTRADOR acepta que el COMPRADOR esté facultado para la obtención de medidas cautelares permanentes u otros remedios (adicionales reparaciones a las establecidas conforme a ley) en relación con cualquier violación o amenaza de violación de cualquiera de tales derechos.

DÉCIMOCUARTO: Derecho de Inspección y Auditoría.

14.1.- CUBATABACO tendrá el derecho, en cualquier momento con previa notificación al SUMINISTRADOR, de designar representante/s que inspeccionen o auditen cualquier aspecto de las instalaciones, archivos u operaciones relacionadas con las actividades u obligaciones del SUMINISTRADOR bajo este contrato, con inclusión y no limitado a cuestiones en relación con pedidos, almacenaje, producción y entrega de los Productos, así como todos los aspectos de control de calidad.

14.2.- El SUMINISTRADOR facilitará diligentemente los informes escritos relacionados con los procesos de fabricación, volúmenes y cualesquiera otras informaciones que periódicamente le pueda requerir CUBATABACO.

DÉCIMOCUINTO: Ventas a Terceros.

Queda prohibido al SUMINISTRADOR la venta o distribución de cualesquiera Producto a persona, empresa o cualquier otra tercera parte que no este específicamente autorizado por el COMPRADOR. La violación de lo precedente se considerará como una falta material insubsanable y facultará al COMPRADOR a terminar de inmediato el Contrato y pedir indemnización por daños y perjuicios.

TITULO III**Otras disposiciones**DÉCIMOSEXTO: Representaciones y Garantías.

1. El SUMINISTRADOR confirma, garantiza y se obliga:



1.1. Que es una entidad debidamente organizada y constituida bajo las leyes de Cuba y para la ejecución y conclusión de este acuerdo está debidamente autorizada.

1.2. Que los Productos dispuestos para la entrega son producidos de acuerdo con los más altos niveles internacionales de la industria aplicable a la producción de productos similares y de acuerdo con las Especificaciones establecidas por el COMPRADOR.

1.3. El SUMINISTRADOR cumple con todas las leyes y regulaciones aplicables donde se encuentran situadas las instalaciones necesarias para la ejecución de este Contrato, incluidas entre otras, las leyes y regulaciones de sanidad, higiene, etiquetado y empaquetado. El Producto producido de acuerdo con las Especificaciones estará libre de defectos y será apto para el consumo humano. El SUMINISTRADOR mantendrá informado al COMPRADOR diligentemente de tales leyes y regulaciones.

1.4. Si el SUMINISTRADOR recibe notificación de alguna agencia gubernamental u otra notificación que afecte a este Contrato tanto en relación con su terminación como de cualquier otro aspecto, deberá enviar inmediatamente una copia de la misma por fax al COMPRADOR y mantendrá a éste informado, en todo momento, sobre el estado y evolución de todos los asuntos relativos a aquella.

1.5. La ejecución, cumplimiento y desarrollo de este Contrato no está sujeto a ningún requisito de licencia o aprobación previas de ninguna autoridad gubernamental ni de la zona donde las instalaciones estén ubicadas y cualquiera de tales requisitos ha sido completamente cumplido.

1.6. La ejecución, cumplimiento y desarrollo de este Contrato por el SUMINISTRADOR no supone un incumplimiento o una infracción o entra en conflicto, con cualquier otro contrato por el que el SUMINISTRADOR quede obligado.

1.8. Los términos y condiciones de este Contrato y las obligaciones de las partes contenidas en el mismo, son conformes con las leyes y regulaciones en vigor.

DÉCIMOSEPTIMO: Derecho aplicable.

El presente Contrato se regirá y será interpretado de conformidad con las Leyes de la República de Cuba y toda controversia surgida de la Interpretación o ejecución del presente Contrato será sometida a la jurisdicción de la Sala de lo Económico del Tribunal Supremo Popular.

DÉCIMOCTAVO: Notificaciones.

Todas las notificaciones, requerimientos u otras comunicaciones entre las partes en relación con el presente contrato se harán por escrito y se entenderán realizadas con su entrega por el notificante, por burofax, por correo certificado con acuse de recibo o por mensajero con causa de recibo, en los domicilios especificados en este documento.

Cualquiera de las partes, bien el SUMINISTRADOR o el COMPRADOR podrá señalar un domicilio distinto mediante notificación a todos los demás realizada conforme a esta estipulación. El cambio de domicilio será solo eficaz al tercer día siguiente a la notificación.

DÉCIMONOVENO: Fuerza mayor.

Si cualquier hecho o circunstancia ajenos al control del COMPRADOR o del SUMINISTRADOR impidieran, limitaran o demoraran el cumplimiento de cualquiera de sus obligaciones en virtud de este Contrato, el plazo para dicho cumplimiento será prorrogado por tanto tiempo como el referido hecho o circunstancia continúen impidiendo, limitando o demorando el cumplimiento.

La parte que no pudiera cumplir sus obligaciones contractuales debido a fuerza mayor deberá avisar inmediatamente por fax o telefax a la otra parte sobre la existencia y duración probable de la fuerza mayor.

Si el plazo fuera prorrogado, como se ha expresado anteriormente, por más de seis meses, cada una de las partes estará facultada para cancelar cualquier entrega de mercancías u obligación afectada, pero, en cambio, el presente Contrato y el resto de sus derechos y obligaciones permanecerán en pleno vigor y efectos. En cualquier caso, ninguna de las partes tendrá derecho a indemnización por cualquier pérdida, daño o perjuicio provenientes de dicha cancelación.

VIGÉSIMO: Integridad y división del contrato.

Este Contrato constituye el acuerdo íntegro entre las partes y sustituye todos los pactos o contratos relativos a la compraventa de los productos entre las partes previamente suscritos, los cuales son por este medio terminados, quedando anuladas cualesquiera condiciones existentes anteriormente a este nuevo Contrato.

VIGÉSIMOPRIMERO: Desistimiento y modificación del Contrato.

Ninguna renuncia de derechos por cualesquiera de las partes ante cualquier infracción, falta u omisión en el cumplimiento u observancia de cualquier acuerdo del presente Contrato por la otra parte será válida, a menos que sea por escrito, firmado a nombre de la parte renunciante, y dicha renuncia no será aplicada o considerada como una renuncia de derechos por cualquier infracción, falta u omisión, a virtud de este Contrato.

La falta por cualquiera de las partes en cualquier momento, de ejecución judicial de los derechos emergentes de este Contrato o de requerir a la otra parte el cumplimiento de sus obligaciones no será interpretada como una renuncia o desistimiento de los derechos reconocidos por el Contrato.

Cualquier modificación o alteración de este Contrato no tendrá efecto a menos que la misma sea acordada por escrito por los funcionarios debidamente autorizados por las partes.

VIGÉSIMOSEGUNDO: Prohibición de cesión.

Ninguna de las partes cederá sus derechos o delegará sus obligaciones surgidas de este Contrato a cualquier otra persona sin el previo consentimiento por escrito de la otra parte.

VIGÉSIMOTERCERO: Subrogación de HABANOS, S.A.

Ambas partes acuerdan que la sociedad mercantil HABANOS S.A. se subroga en lugar y grado de CUBATABACO en todos aquellos derechos y obligaciones derivadas de las cláusulas Sexta, Séptima, Novena, Décima y Undécima del presente Contrato.

Y para que así conste, ambas partes se ratifican en el contenido íntegro del presente Contrato y, en prueba de conformidad, lo firman en este acto en tres originales igualmente válidos, en el lugar y fecha arriba indicados.

POR Y A NOMBRE DEL SUMINISTRADOR

POR Y A NOMBRE DEL COMPRADOR

**ANEXO NO. 1 AL CONTRATO DE SUMINISTRO DE TABACO TORCIDO
OTORGADO POR EL SUMINISTRADOR Y CUBATABACO A LOS 10 DIAS
DEL MES DE DICIEMBRE DE 2000.**

AMBAS PARTES acuerdan lo siguiente:

Las MARCAS COMERCIALES objeto de presente Contrato son:

En todo el mundo:

- 1.
- 2.
3. REDACTED
- 4.
- 5.

En Cuba:

DENOMINACION	NO. REGISTRO	Clase	Titular
Behique (etiqueta)	36987	34	Cubatabaco
Cohiba (etiqueta)	123125	34	Cubatabaco
Cohiba	111 059	34	Cubatabaco
Edmundo Dantes	119385	34	Cubatabaco
Edmundo Dantes (etiqueta)	119385	34	Cubatabaco
La Casa del Habano (Diseño)	118875	34	Cubatabaco
La Perla	112574	34	Cubatabaco
Maria Guerrero	109994	34	Cubatabaco
Qual D'Orsay	370/87	34	Cubatabaco
Trinidad (Diseño)	100673	34	Cubatabaco

Y COMO CONSTANCIA, AMBAS PARTES por este medio han firmado los
originales de este Anexo el 10 de diciembre de 2000.

POR Y A NOMBRE DEL
SUMINISTRADOR

POR Y A NOMBRE DEL
COMPRADOR

ANEJO II. PRECIOS

LISTA DE PRECIOS DE COMPRA POR MARCAS Y VITOLAS AÑO 2000

USD POR MIL UNIDADES

PRECIO

PRECIO COMPRA

REDACTED

01/09/01 MAR 17:46 FAX 338848

HABANOS S.A.

2011

PRODUCTO

PREMIUM COMPRA

REDACTED

4 MB

CONFIDENTIAL UNDER
PROTECTIVE ORDER

FOR MORGAN & FINNEGAN'S
EYES ONLY
UNDER COURT ORDER

PI0064

ANEXO 1

ESPECIFICACIONES DE FABRICACIÓN DE TABACO TORCIDO

Las Partes se comprometen a integrar las especificaciones de las marcas faltantes, en el plazo máximo de 30 días desde la fecha del documento principal

REDACTED

Empresa Tabaco Tercido "El Ligito" 131.0.1695	Tabaco y sus productos TABACÓ TORCIDO MARCA COH.BA Especificaciones	
REDACTED		

ANEXO II NORMAS DE INSPECCIÓN

1.- NORMATIVAS DE MUESTREO.

Según aparece en las hojas anexas.

2.- MÉTODOS PARA LA INSPECCIÓN

Lote: Total de tabacos de una misma marca y vitola de salida contenida en una factura.

Para cada lote se aplica los siguientes métodos de muestreos:

Método A:

- > Se procede a la inspección visual de las características: Estado del embalaje y estado de la marcación.

Método B:

- > Se procede a la inspección visual de las características: Estado del etiquetado y estado del envasado.

Método C:

- > Se procede a la inspección visual de la uniformidad.

Método D:

- > Se procede a la inspección visual del aspecto exterior y la compacidad del producto (consistencia).

Método E:

- > Se procede a la inspección del tabaco por el método organoléptico para comprobar la humedad.

Método F:

- > Se procede a la inspección visual para la detección de mohos y plagas.

3.- CRITERIOS DE INSPECCIÓN

Según se relaciona en hojas anexas.

700

CARACTERISTICAS

- 1 Estado de Embalaje y
- 2 Estado de Marcación

REDACTED

- 3 Estado de etiquetado y
- 4 Estado del envasado

REDACTED



01/09/01 WAR 17-48 FBI 338918

HABANDS S.A.

2014

5 Uniformidad (a golpe de vista)
Colores
Longitud y grosor
Altura del anillo

REDACTED

6 Aspecto exterior y
confección de las perillas
Estirado de la capa
Manchas
7 Consistencia

REDACTED

DB
A

CONFIDENTIAL UNDER
PROTECTIVE ORDER

FOR NOFORN EYES ONLY
UNDER PROTECTIVE ORDER

P10069

01/03/01 MAR 17:48 FAX 33846

ELABORA S.A.

013

Los tabacos se seleccionarán del conjunto de envases, tomados por el Método C.

8 Humedad

REDACTED

9 Mohos y
10 Plagas

REDACTED

11 Color, Olor, Sabor, Aroma y Fortaleza

Aceptación, de acuerdo a las muestras de referencia.

CONFIDENTIAL UNDER
PROTECTIVE ORDER

FOR MORGAN & THOMPSON'S
EYES ONLY
UNDER PROTECTIVE ORDER

P10070

CONTRACT FOR THE SUPPLY OF ROLLED TOBACCO

Havana, December 10, 2000

TOGETHER

D. Oscar Basulto, by authority and in representation of Grupo Empresarial del Tabaco (TABACUBA), domiciled in Havana at Avenida Independencia and Conil, Plaza de la Revolucion, hereinafter called the SUPPLIER.

D. Juan Dias Tenorio, by the authority and in representation of Cubatabaco, a state company domiciled at O'Reilly 104, Old Havana, hereinafter called the BUYER.

DECLARE

First: The SUPPLIER is the owner, centralizes and manages the agricultural and industrial companies in the Cuban tobacco sector whose purpose is to produce and manufacture rolled tobacco, hereinafter called the PRODUCT.

SECOND: The SUPPLIER has entered into contracts with the agricultural companies to purchase all of the product line produced in Cuban, and has, in turn, signed contracts with industrial companies for the manufacture and sale of the PRODUCTS.

THIRD: The BUYER is the owner of trademarks described in Appendix I of this Contract, hereinafter called the TRADEMARKS.

FOURTH: The industrial companies have the ability and experience necessary to manufacture and supply the PRODUCTS in the quantities, qualities, delivery dates and trademarks as established by the BUYER.

FIFTH: On the same date, CUBATABACO signed an Exclusive Distribution Contract with CORPORACION HABANOS, S.A. for the worldwide marketing of the PRODUCTS under the TRADEMARKS described in Appendix I.

On the basis of the aforementioned, the parties have decided to enter into this exclusive supply contract and financing contract for the PRODUCTS, and have

AGREED:

SECTION I General Provisions

First: Purpose of the Contract

1.1 The purchase of rolled tobacco (cigars) of any size, format and ring gauge under the BUYER'S trademarks for export and for the domestic foreign-exchange market in Cuba, which cigars shall be delivered by the SUPPLIER to the BUYER pursuant to the clauses and appendices that appear below, and their successive annual revisions.

[initials]
P10054

1.2 If the trade embargo imposed by the United States against Cuba should be lifted during the course of this Contract, the Parties shall negotiate in good faith to incorporate the supply of trademarks destined for that market into this Contract.

SECOND: Duration of the Contract

This Contract shall have a duration of 5 years from February 1, 2001, and may be tacitly renewed for similar periods unless one party notifies the other of its desire to terminate within six months prior to the end of each period.

SECTION II

Provisions regarding the exclusive supply of rolled tobacco

THIRD: General Obligations of the Parties

a) Of the SUPPLIER

1. To manufacture the products in the quantities, qualities, dates of delivery and at prices in accordance with the general and specific terms and conditions agreed to annually by the parties.
2. To supply the BUYER with said production from its current and future installations.
3. To establish jointly with the BUYER the necessary methods, controls and procedures so that the products, including those rejected and in surplus, may not be sold, except in the domestic market in Cuban pesos, without the seals and trademarks of HABANOS or other identifying elements of the PRODUCTS.
4. To deliver the PRODUCTS according to the timetable established in the annual addenda to this Contract.
5. To diligently care for the labels, boxes, packaging, tapes, molds, dies, stamps and whatever other supplies and materials of production make up the final product.
6. To guaranty that the companies belonging to it, or their successors, shall act in a manner that facilitates performance of the obligations under this Contract.
7. To guaranty production and delivery of the PRODUCTS to the BUYER for export and for the internal foreign-exchange market.
8. To inform the BUYER of the composition and formulae for rolled tobacco products as prepared and defined from time to time in conjunction with the BUYER, as well as any product improvements or definitions of any new products.

b) Of the BUYER:

1. To accept and pay for the products supplied pursuant to the terms and conditions agreed upon.
2. To authorize the manufacture of products by the industrial companies under their trademarks for the sole purpose of this contract pursuant to the orders established annually in the corresponding addenda.

FOURTH: Details of Operations

The operations of manufacture and delivery agreed upon annually by the Parties shall immediately be reflected in the Addenda that are an integral part of this Contract. These addenda shall also be signed by both parties and state the quantity, size, format, ring gauge, trademarks, price, deliver terms and other specific details agreed upon.

[initials]
P10055

The price of the merchandise agreed to between the parties and the amount of each invoice shall be expressed in U.S. dollars.

The price for each type of product shall be established and agreed upon annually, and listing in the corresponding addenda.

Notwithstanding the aforementioned, the prices for the years 2000 to 2003 shall be those established in the Addenda II to this Contract.

For successive years after the year 2003, purchase prices shall be established as a function of the prices in the year prior to the referenced year and may be individually modified by agreement between the parties.

Payment for the products delivered must be made within 15 days from the date of receipt as stated in the invoice, pursuant to the procedure established in item twenty below.

SIXTH: Delivery of the merchandise

The place of delivery shall be the SUPPLIER'S or BUYER'S warehouse, depending on which party has transported the merchandise, and the date of delivery shall be considered that of the receipt of the merchandise as shown on each invoice.

The BUYER is obligated to pick up the merchandise with 3 working days from the date it receives written communication of the availability of the merchandise, provided that the delivery is within the quantities agreed to for the current month or agreed to between the parties.

The hours of delivery of the products in the warehouse of the SUPPLIER is from Monday to Friday from 7:30 a.m. to 3:30 p.m. and the hour of delivery in the warehouse of the BUYER shall be Monday to Thursday from 7:30 a.m. to 4: p.m. and Friday from 7:30 a.m. to 3:00 p.m.

In the case that the BUYER does not pick up the merchandise in the warehouse of the SUPPLIER in the term established, it shall be charged with the resulting damages and injuries.

The storage and other costs incurred by the SUPPLIER, when the transport of the merchandise arrives within the agreed upon hours and is not unloaded, shall be charged to the BUYER. The parties shall agree to the tonnage to be unloaded per day at the warehouse according to a trimester plan.

SEVENTH: Transport of the products.

The transport of the products from the warehouse of the SUPPLIER to the warehouse of the BUYER shall be as follows:

- In the case of the companies located in the City of Havana, it shall be done and contracted for by the BUYER. The costs of transport, insurance and other inherent costs for fulfilling this obligation shall be charged to the BUYER.
- In the case of the companies located outside of the City of Havana, it shall be done and contract for by the SUPPLIER. The costs of transport, insurance and other costs inherent in the fulfillment of this obligation shall be charged to the BUYER in accordance with the tariffs agreed upon annually by the parties, the SUPPLIER guarantying that the transport is undertaken in accordance with the norms in force for this type of product.

In the case that the BUYER goes to the warehouse of the SUPPLIER to pick up merchandise upon prior notification of availability by the SUPPLIER, and it is not found in the minimum quantities agreed upon, the BUYER shall have the right to charge the SUPPLIER for the costs incurred.

The party that contracts the transport shall have the obligation to establish the corresponding claims against the transport company.

The BUYER may reserve the possibility of undertaking all the transport of the products itself at the time at which the development of its business makes it advisable.

EIGHTH: Manufacture, boxing, packaging, printing, labeling, weight and dimensions

The SUPPLIER agrees to manufacture the products in compliance with the specifications established in Addenda III of the present Contract (it shall be attached once all the norms are compiled); if the SUPPLIER should need to modify the process of manufacture because of determined conditions in the market or other external reasons, the BUYER shall approve such modifications; the SUPPLIER shall not make any modifications in the process of manufacture or of materials that substantially change the quality, human work, presentation, flavor or aroma of the Products with prior consent in writing by the BUYER.

THE SUPPLIER shall deliver the products contracted in the boxes and packaging, as well as with the printing, labels, weight and dimensions contained in the Norms of Specification of Quality of Rolled Tobacco that are set forth in Addenda III of this Contract.

NINTH: Reception of the Products

The inspection of the products delivered shall be done in the warehouse of the BUYER according to international norms the procedure and content of which are attached in the Addenda IV of this Contract.

THE BUYER shall have a term of 15 working days from the date of delivery to inspect the delivered products.

The value of the rejected deliveries shall be deducted from the invoice immediately following.

TENTH: Quality

When the BUYER considers that there exists some parameter of quality that may be debated with the SUPPLIER, it shall send notification of it and the latter is obligated to respond to the BUYER in a term of 6 working days from the date of receipt of the notification. If the SUPPLIER or its representative fails to respond, the BUYER may make a claim for the costs incurred. This procedure must take place with a period of time of 30 days as established in item 22, which follows.

The BUYER shall issue the final Reception Report.

Any rejects shall be the property of the BUYER, which shall not make any payment whatsoever for these to the SUPPLIER, and shall remain stored in the BUYER's warehouse.

THE BUYER shall decide what to do with the rejected merchandise and shall handle subsequent rejected merchandise in the same manner.

[initials]
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The value of the merchandise obtained by the BUYER for the rejected merchandise, once the costs incurred are deducted, shall be the amount that is ultimately due to the SUPPLIER.

The SUPPLIER must be informed of all this by the BUYER.

The SUPPLIER shall accept as valid for all legal effects all the rejections of the BUYER, independently of whether the latter has made inspections or not of the quality during the production phases.

In the case of a total or partial rejection of merchandise, the BUYER may opt to have the order repeated without additional cost or cancel the corresponding delivery without prejudice to that set forth above in this agreement.

The SUPPLIER shall accept as valid for all legal effects all the rejections of the BUYER, independently of whether the latter has made inspections or not of the quality during the production phases.

ELEVENTH: Claims

The claims for quality shall be notified in writing within 30 days following the date of delivery of the products by the SUPPLIER, when the breach is apparent or provable within the national territory; up to 35 days when it may be necessary to review the totality of the merchandise, or within 60 days following the date of claim by a foreign client to the BUYER when the breach is not apparent or provable in the national territory, and in no case may it exceed 6 months from the date of reception of the product in the national territory.

Whatever other claims for a reason other than quality must be notified in writing within 30 days following the date of delivery of the products by the SUPPLIER.

In the case of delay in deliveries for more than 15 days, independent of the right of the BUYER to claim damages and prejudices to the SUPPLIER, it shall be obligated to pay a fine of up to 8% of the equivalent value of the delivery according to the following scale:

<u>Period</u>	<u>Fine</u>
Between 16 and 30 days	4%
Between 31 and 45 days	6%
More than 45 days	8%

TWELFTH: Confidentiality

12.1 Both parties recognize that any commercial, technical or other information (including, among other things, the product formula or other specifications, the source of its components and other trade secrets) that was given to or has become known to the SUPPLIER under this Contract (the "confidential information") is confidential and has a financial value. The SUPPLIER and the BUYER shall keep the information confidential and in the strictest secrecy, and shall not use it for purposes other than performance of this contract.

12.2 The provisions described above shall continue even if this contract is rescinded or terminated, and they shall be maintained in effect as long as the SUPPLIER and the BUYER have any confidential information.

[initials]
P10058

THIRTEEN: Trademarks

13.1 No rights or licenses whatsoever are granted to the SUPPLIER for any trademarks, models or other industrial property rights involved in the manufacturing process. For this reason, the rings, supplies, dies, photoliths, molds used to make the die, packages and seals of guaranty belonging to the BUYER must be strictly safeguarded by the SUPPLIER who must establish the necessary controls approved by the BUYER in order to avoid any improper use that could jeopardize the exclusivity of the supply of rolled tobacco pursuant to this Contract.

13.2 The SUPPLIER recognizes that it has not rights and no interest whatsoever in any trademark used in the manufacturing process. The SUPPLIER shall not make use of any trademark either during or after the term of this Contract without the prior written consent of the BUYER. Furthermore, it does not intend to register or claim rights to any trademark anywhere in the world. The SUPPLIER shall not challenge the validity of any trademark and will not take any actions, indeed shall abstain from taking any action, that might be prejudicial to the value of any trademark. The SUPPLIER shall inform the BUYER of any infringement or presumed infringement of any trademark that the SUPPLIER might be aware of, recognizing that non-compliance with this Section could cause irreparable damage to the BUYER for which monetary reparations would be inadequate. Therefore, the SUPPLIER agrees that the BUYER is entitled to take any permanent measures or seek other remedies (reparations in addition to those established that are allowed by law) with regard to any violation or threat of violation of any of these rights.

FOURTEEN: Rights of inspection and audit

14.1 CUBATABACO has the right at any time (upon prior notification to the SUPPLIER) to appoint a representative or representatives to inspect or audit any aspect of the facilities, files or operations related to the activities or obligations of the SUPPLIER under this contract including, but not limited to, anything with regard to orders, storage, productions and delivery of the Products as well as all aspects of quality control.

14.2 The SUPPLIER shall diligently provide written reports related to the manufacturing processes, volumes and any other information that may be required periodically by CUBATABACO.

FIFTEEN: Sales to third parties

The SUPPLIER is prohibited from selling or distributing any Product to any person, company or any third party not specifically authorized by the BUYER. Violation of the preceding shall be considered an irreparable material breach entitling the BUYER to immediately terminate the Contract and seek indemnification for damages.

SECTION III Other Provisions

SIXTEEN: Representations and Guarantees

1. The SUPPLIER confirms, guarantees and/or agrees:

{initials}
P10059

1.1 That it is an entity duly organized and constituted under the laws of Cuba and duly authorized to execute and sign this agreement.

1.2 That the Products available for delivery are produced in accordance with the same high international levels of the industry applicable to the production of similar products and in accordance with the Specifications established by the BUYER.

1.3 The SUPPLIER complies with all the laws and applicable regulations in the areas in which the necessary installations for the execution of this Contract are situated, including among others, the sanitary, hygienic, labeling and packaging laws and regulations. The Product produced in accordance with the Specifications shall be free of defects and shall be apt for human consumption. The SUPPLIER shall keep the BUYER diligently informed of such laws and regulations.

1.4 If the SUPPLIER shall receive notification from any governmental agency or other notification that affects this CONTRACT in relation to its termination as well as any other aspect, it shall immediately send a copy of the same by fax to the BUYER and shall keep the latter informed at all times about the state and evolution of all matters related to it.

1.5 The execution, fulfillment and development of this Contract is not subject to any requirement of license or prior approval of any governmental authority nor of the zone where the installations are located or any such requirements have been completely fulfilled.

1.6 The execution, fulfillment and development of this Contract by the SUPPLIER does not constitute any breach or infraction or conflict whatsoever with any other contract under which the SUPPLIER may have obligations.

1.8 The terms and conditions of this Contract and the obligations of the parties contained therein are in conformity with the laws and regulations in force.

SEVENTEENTH: Applicable Law

The present Contract shall be governed and interpreted in accordance with the Laws of the Republic of Cuba and any controversy arising from the interpretation or execution of the present Contract shall be submitted to the jurisdiction of the Economic Chamber of the Supreme Popular Court.

EIGHTEENTH: Notifications

All notifications, requirements and other communications between the parties related to this Contract shall be in writing and shall be understood as made with the delivery by the notifier by fax, certified mail with return receipt or by messenger with signed receipt to the addresses specified in this document.

Any of the parties, either the SUPPLIER or the BUYER, shall be able to designate a different domicile by notification to the others done in conformity with this stipulation. The change of domicile shall only be effective on the third day after notification.

NINETEENTH: Force Majeur

If any fact or circumstance beyond the control of the BUYER or SUPPLIER impedes, limits or delays fulfillments of any of its obligations under this Contract, the time period for said fulfillment shall be extended for such time as said fact or circumstance continues to impede, limit or delay fulfillment.

[initials]

P10060

The party that cannot fulfill its obligations due to the force majeure shall immediately advise by fax or telefax to the other party of the existence and probable duration of the force majeure.

If the time extended, as expressed above, should be for more than six months, each of the parties shall be authorized to cancel whatever delivery of merchandise or obligation affected, but, in exchange, the present Contract and the rest of its rights and obligations shall remain in full force and effect. In whatever case, neither of the parties shall have the right to indemnification for any loss, damage or prejudice arising from such cancellation.

TWENTIETH: Integrity and division of the contract

This Contract constitutes the entire agreement between the parties and substitutes all agreements or contracts related to the purchase of the products previously signed between the parties, which are terminated by the signing of this Contract and any prior conditions are nullified by this new Contract.

TWENTY FIRST: Waivers and modifications of the Contract

No waiver of rights by any of the parties to any infraction, failure or omission of fulfillment or observance of any accord of the present Contract by the other party shall be valid unless in writing, signed by the waiving party, and said waiver shall not be applied or considered as a waiver of the rights any other infraction, failure or omission under this Contract.

The failure of any of the parties at any time to judicially enforce its rights under this Contract, or to require the other party to perform its obligations, shall not be interpreted as a waiver or relinquishment of rights acknowledged under the Contract.

Any modification or alteration of this Contract shall not take effect unless the same shall be agreed to in writing by the officers duly authorized by the parties.

TWENTY SECOND: Prohibition of assignment

Neither of the parties shall assigned its rights or delegate its obligations under this Contract to any other person without the prior written consent of the other party.

TWENTY THIRD: Subrogation of HABANOS, S.A.

Both parties agree that the commercial company HABANOS S.A. may be subrogated in the place of CUBATABACO with regard to all rights and obligations derived from clauses Six, Seven, Nine, Ten and Eleven of this Contract.

In witness thereof, both parties have approved the entire content of this Contract and evidence their agreement by signing this document in three original copies, both equally valid, in the aforementioned location and on the aforementioned date.

FOR AND IN THE NAME OF SUPPLIER [signature]

FOR AND IN THE NAME OF BUYER [signature]

ADDENDUM NO. 2 TO THE CONTRACT FOR SUPPLY OF ROLLED TOBACCO SIGNED
BETWEEN THE SUPPLIER AND CUBATABACO ON MARCH 10, 2000

BOTH PARTIES agree to the following:

THE COMMERCIAL MARKS subject to this Contract are:

In the World:

- 1.
- 2.
3. Redacted
- 4.
- 5.

In Cuba:

DENOMINATION	NO. REGISTRATION	Class	Owner
Behique (label)	36987	34	Cubatabaco
Cohiba (label)	123125	34	Cubatabaco
Cohiba	111 059	34	Cubatabaco
Edmundo Dantes	119385	34	Cubatabaco
Edmundo Dantes (label)	119875	34	Cubatabaco
La Casa del Habano (design)	118875	34	Cubatabaco
La Perla	112574	34	Cubatabaco
Maria Guerrero	109994	34	Cubatabaco
Quai D'Orsay	370787	34	Cubatabaco
Trinidad (Design)	100673	34	Cubatabaco

AND IN WITNESS THEREOF, BOTH PARTIES have signed the originals of this
Addendum on the 10th of December of 2000.

FOR AND IN THE NAME OF
SUPPLIER
[signature]

FOR AND IN THE NAME OF
BUYER
[signature]

P10062

ADDENDUM II. Prices

LIST OF PRICES FOR THE PURCHASE OF MARKS AND SIZES YEAR 2000

PRODUCT	USD PER THOUSAND UNITS PURCHASE PRICE
---------	--

REDACTED

P10063

PRODUCT

PURCHASE PRICE

REDACTED

P10064

ADDENDUM

SPECIFICATIONS FOR THE MANUFACTURE OF ROLLED TOBACCO

The Parties agree to integrate the specifications of the remaining marks within 30 days from the date of the principal documents.

REDACTED

P10065

Empresa Tabaco
Torcido "El Laguito"
131.0.1695

Tobacco and its products
CIGARS COHIBA TRADEMARK
Specifications

REDACTED

P10066

ADDENDUM IV. NORMS OF INSPECTION

1. NORMS FOR SAMPLES

According to the pages attached.

2. METHODS OF INSPECTION

By Lot: All tobacco of the same brand and size contained in the invoice.

For each lot the following methods of sampling are to be applied:

Method A:

Visual inspection of the characteristics: Condition of packing and marking.

Method B:

Visual inspection of the characteristics: conditions of labeling and container.

Method C:

Visual inspection of uniformity.

Method D:

Visual inspection of the exterior and the compactness of the product (consistency).

Method E:

Inspection of the tobacco by organoleptic methods to show humidity.

Method F:

Visual inspection to detect molds and plagues.

3. CRITERIA OF INSPECTION:

According to the attached pages.

CHARACTERISTICS

- | | | |
|----|----------------------------|----------|
| 1. | Condition of container and | REDACTED |
| 2. | Condition of marking | |
| 3. | Condition of labeling and | |
| 4. | Condition of packaging | |

5. Uniformity (at first glance)

Colors

Length and thickness

Size of ring

REDACTED

6. Exterior aspects and creation of the mouth of the cigar
Finish of the wrapper
Spots

7. Consistency

REDACTED

The cigars shall be selected from a number of packages, taken for Method C.

8. Humidity REDACTED

9. Mold and

10. Pests REDACTED

11. Color, odor, flavor, aroma and strength Acceptance pursuant to reference
samples.

P10070

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

-----	X	
EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----	X	

PARTY DESIGNATIONS*: Petitioner's Designations During Its Trial Period—Yellow or Pink
Respondent's Designations During Its Trial Period—Green
Petitioner's Designations During Its Rebuttal Period—Blue

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony and Exhibits of Bernardo Gonzalez Silveira, dated May 27, 2003**

(Exhibits to Written Direct Testimony not highlighted to preserve clarity)

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL CIGAR CO., INC.

Defendants.

97 Civ. 8399 (RWS)

WRITTEN DIRECT EXAMINATION TESTIMONY
OF

BERNARDO GONZÁLEZ SILVEIRA

Submitted April 26, 2003

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

DIRECT EXAMINATION
TESTIMONY OF
BERNARDO GONZÁLEZ SILVEIRA

1. My name is Bernardo González Silveira.

2. I reside at Calle Nueve No. 12810, Reparto EMBIL Boyeros, Ciudad de La Habana (Havana), Cuba.

Educational Background

3. I attended the primary and secondary school in Cuba. While I was in primary school, when I was about 12 years old, I began the study of English and I continued the study of English for four years.

4. In 1962, I attended a technical school up to 1964.

5. Years later, in 1975, I attended a special language school where I studied to become an English teacher and I became qualified to work as an English language teacher in the public school system.

Employment History & Responsibilities

6. In 1965, after my graduation from the public school system, I began working for Cubatabaco at a cigarette factory, operating machinery. I continued in this position until 1973, working for a few months at another factory, before taking an office position at Cubatabaco.

7. From 1973 through late 1976, I was employed at the offices of Cubatabaco as a Translator, taking English language articles given to me and translating them into Spanish. The articles were mostly magazine articles, mostly concerning cigars, and included United States publications such as *Tobacco Reporter* and *Tobacco International*.

8. It was during this same period of time that I had obtained my qualification to become an English teacher, as I said before, and I told Cubatabaco that I would be leaving for that reason. However, because my ability to translate between English and Spanish was important to them, they offered me more money to stay at Cubatabaco and I agreed that I would stay.
9. In 1977, after one month in military service, I returned to Cubatabaco and was promoted to the position of Marketing Researcher, a position which I held until 1994.
10. As Marketing Researcher, I still continued to translate articles from English into Spanish, and a main focus of the articles given to me to translate were articles concerning the U.S. market for cigars. Also, from among the magazines and publications received by Cubatabaco, I was instructed to look for articles which showed information about the pricing and marketing of cigars and to collect those for Cubatabaco, translating also in many cases.
11. My instructions to collect market information concerned certain markets to which I was assigned. At first, these markets were Canada, Switzerland, the Middle East and the Caribbean Basin. Sometime in the 1980s, possibly in the early 1980s but I am not exactly sure of that, I was also assigned to collect market information for the United States. My memory is that from that point on in my work as Marketing Researcher, I collected more information on the United States than on any of my other four assignments.
12. I looked at all of the publications which Cubatabaco subscribed which might contain market information about the United States and my other assigned areas, which, as I stated before, included U.S. publications like *Tobacco Reporter* and *Tobacco International* and which also included *Cigar Aficionado* as soon as it started being published.
13. In 1994, when Habanos, S.A. was created, I began work at Habanos under the title Marketing Specialist, but I continued to collect market information in the same way I did before for the same five assigned markets I described before.
14. I recall that at some point in 1994, but I don't remember what month, there was even greater emphasis on the United States, because there was a study about how cigars could be marketed in the U.S. and how supply and demand would be managed with other markets, if the U.S. embargo were lifted. I do not remember exactly how long that study lasted, but I think it was for several months and I collected much information on the U.S. during that time. I did not see any written report.
15. Then, sometime around 1995, Ana Lopez, the person to whom I reported, told me that she wanted me to concentrate on the Asian market, because I had been to China, and that someone else would continue my work on the United States. However, although I was not the person who was instructed to collect information on the U.S. market after that, I did continue to be assigned to something else I was also doing, which was to translate for and help American journalists, authors, and other visitors who had an interest in Cuban cigars and mostly Cohiba.

Assistance to Visiting Journalists, Authors and Other Persons

16. In addition to the duties I already discussed, one of my responsibilities has been to accompany and help with the needs of foreign journalists, book authors and individuals who visit Cuba and want to learn about or to report on Cuban cigars, including Cohiba.
17. From about the middle of the 1980s, there were visitors from the U.S. who I was instructed to assist who were interested to know about Cohiba and the factory where it is made, El Laguito and also to visit the Vuelta Abajo where the best leaves are taken for the Cohiba.
18. For the period from 1992 through 1996 and into 1997, this continued to be part of my responsibility and I was instructed to help many U.S. journalists and other persons from the U.S. in this regard.
19. For example, during that period of time, I had many contacts with the journalist James Suckling of *Cigar Aficionado*. I remember that I was instructed that Mr. Suckling was a very important U.S. journalist and I was told to assist him as much as possible in visits he wanted to make to learn about how the cigars were made, to see where they made, and other things like that. I was the one asked to accompany him because I had the best knowledge of English. During this period, Mr. Suckling came to Cuba frequently, every year and sometimes more than one time in a year.
20. He was interested in all of the cigars, but I remember that many times we spoke specially about Cohiba and I took him to the vegas - the tobacco fields - where the leaves for Cohiba are selected, in the Vuelta Abajo region. I was the one who suggested we go there and I remember that I explained to him how the best leaves from the Vuelta Abajo region were the ones that are for Cohiba. This was explained to him by a technician while I translated for him.
21. When Mr. Suckling came to Cuba, always I was instructed to help him as much as I could to see places and to learn things that he could write about in his job as a journalist for *Cigar Aficionado*. He was very interested, for example, in El Laguito and I took him there a number of times during this period of years.
22. I remember on one visit to El Laguito, Mr. Suckling asked me if he could learn about the third fermentation and to speak about this to someone who is in charge, who was a technician named Cruzata, whose first name I do not remember. The third fermentation was something important to Mr. Suckling because only Cohiba has three fermentations and all of the other brands have two. So, I introduced him to Cruzata and Cruzata showed him the room where the leaves are kept for the third fermentation. This was something very special, because to my knowledge that room is shown to nobody else. I remember that sometimes European journalists would ask to see that room but the answer was always that they could not.
23. On his different visits, I also took Mr. Suckling to see other factories, like Partagas, Upmann and La Corona. He would be interested in other cigars also, but always he was also interested in Cohiba, which these factories also helped to make because El Laguito is small and these factories are bigger.

24. I remember another time that I took Mr. Suckling to El Laguito, maybe around 1994, that he wanted to speak directly with the manager of the factory, Emilia Tamayo. Normally, she does not assent to be interviewed by different journalists, but she agreed to be interviewed by Mr. Suckling. This was very special.
25. I showed Mr. Suckling many things each time he visited during this period, because he was interested in many things, but he focused on Cohiba and he kept going back several times to El Laguito.
26. Another time during this period, Mr. Suckling asked to speak with Eduardo Rivera because he is known as the man who created Cohiba cigars. I took Mr. Suckling to see him and we went to his farm and Mr. Suckling got to spend more than one hour with him. This was very unusual that Mr. Rivera would agree to be interviewed, but I explained to him that this was important that he do this for the U.S. journalist and so he agreed.
27. Attached as Pl. Ex. 1181 is a true and correct copy of a letter which Ana Lopez gave to me around the end of 1996 instructing me to coordinate the visits and assistance stated in the letter from Mr. Suckling, including with other things to visit El Laguito and to speak again to the manager of the factory.
28. On two different visits, a man named David Savona, who is a journalist for Cigar Insider, came with Mr. Suckling. The visits were both during this time period, and I recall that one of the visits was in early 1996 and I took Mr. Savona to El Laguito to see where Cohiba is made and also and to Vuelta Abajo where we spoke about other cigars and also about the special leaves used for the Cohiba.
29. There was a journalist named Mary Murray from NBC news who came three times during this period of time and I remember that Ana Lopez told me to show her whatever she wanted to see. I remember taking her to see El Laguito and also to the Vuelta Abajo.
30. I cannot remember their names because many years have passed. However, I would estimate that there were about twenty journalists or a little more who came during the years from 1992 into 1997 and always I was instructed to help them and take them any place they wanted to go, and the focus on most of these visits was usually on El Laguito and the Vuelta Abajo region.
31. There were also during this period of time what we called journalists in transit, for example journalists who had not come directly through a request to us. These journalists in transit reported to the International Press Center and sometimes the Center would call us and say that a journalist wants to see something, for instance El Laguito. If they were from Europe we did not usually take them to El Laguito, because it is a small factory and they would need to get their work done. But if they were from the U.S., we would even suggest that they go to El Laguito. This was true for every year in the period from 1992 to 1997 and all together added up to 20 or 25 journalists in transit that I assisted.
32. I also was instructed during this time to give special assistance to visitors who were writing books or making films that might be seen in the U.S. One writer for example was Nathaniel Lande and his son Andrew Lande who were writing a book on cigars. Their first visit was in 1994 or 1995 and then again in 1996 and then again in 1997 and also after that. I worked with

them for many days and gave them special emphasis and helped them very much for them to reach their goal to write the book. They gave me a copy of the book, called An Illustrated History and Guide to the World's Finest Cigars, The Cigar Connoisseur, with a special inscription thanking me for all of my help. A copy of the first few pages of the book, marked Pl. Ex. 1198 and showing the inscription, is attached, together with an additional excerpt from the book designated Pl. Ex. 1222.

33. I also remember during this time period being instructed to give special assistance to a father and son writing a book on cigars that would be published in the U.S. I remember the father's name was Vahe Gerard, but I do not remember the son's name. Attached is Pl. Ex. 1227, showing the publication of a book by Gerard Pere & Fils, called Havana Cigars, in 1995, with a U.S. publication in 1997.

34. Also, I remember during this period of time helping an author called Charles del Todesco and I worked a lot with him. Attached is Pl. Ex. 1229, showing the publication of a book by Charles del Todesco called The Havana Cigar in 1996 and in English in 1997. Theo Rudman was another book writer that I was told to assist and he wrote several editions of a book about cigars, including Cohiba. Another U.S. writer I helped was Richard Hacker.

35. During this period of time, I also was instructed to give special assistance to U.S. film makers, like Douchan Gersi and John Schindler from Tuareg Films, who made a video called Rhythm & Smoke. I think Schindler was an assistant to Gersi. I worked with them sometime around 1995 or 1996 and I remember that Ana Lopez had instructed me to work with Gersi almost a full week, including a visit to the Vuelta Abajo and to the factories, including El Laguito. Attached is Pl. Ex. 1185, which is a true and correct copy of a letter I received in January 1997 from John Schindler, thanking me for my help.

36. Also, I remember around this same time that Ana Lopez instructed me to set up arrangements for Rick Dees, who did not need me to accompany him directly because even though he was from the U.S., he had his own translator. However, I was told to assist with interviews and arrangements, for example a visit to El Laguito and anything else that he wanted.

37. Sometime in the early 1990s, when some U.S. celebrities came for a special dinner and show in another region, I was instructed to actually move there to be with them and to assist them. I remember meeting Joe Pantoliano, Matt Dillon, Seymour Cassel and Michael Nouri. I took Mr. Nouri to one of the factories and I took Matt Dillon and about seven of his U.S. friends that were also with him to the Vuelta Abajo and I remember that he was very interested in Cohibas and I remember him smoking one as well.

38. All in all, during the period from 1992 and into 1997, I was instructed to give special assistance to U.S. journalists, book authors, film makers and celebrities, because they were considered to be very important, since because of the embargo we could not directly sell Cuban cigars in the United States. Although I assisted these people in any way that they wanted, including seeing things and learning about cigars other than Cohiba, there was always a special emphasis on Cohiba and I took many people to see El Laguito, the factory where only Cohiba was made, as well as to the other factories where Cohiba was also made, and also to the Vuelta Abajo. There

was no year during this period from 1992 and into 1997 that I was not giving this type of special assistance to some of these types of visitors from the U.S.)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

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**Exhibits to Federal Action Plaintiff's Written Direct
Testimony of Bernardo Gonzalez Silveira, dated May 27, 2003**

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**Exhibit 1181 to Federal Action Plaintiff's Written Direct
Testimony of Bernardo Gonzalez Silveira, dated May 27, 2003**

8055
12/12/96

Suckling.
Viene el
27-1-96.

12/12/96
COPIES
1/25/97

Cigar Aficionado

December 6, 1996

TO:
Ana Lopez
Habanos SA
Mercaderes N. 21
O'Reilly Y Empedrado
Havana
Fax: 338-946

FROM:
James Suckling
11-15 Highbridge Wharf
London SE10 9PD
Fax 0181-305-2660

Dear Ana

The Cuaba launch was a great success in London. It's a shame that you couldn't be there. In addition, it was wonderful to spend some time with Sr. Linares. We had an excellent interview.

I am faxing you to confirm my trip to Havana in January.

Here are the stories I would like to research:

1. Fernando Lopez, head of production for all export factories: I would like to have an hour interview with the man
2. Mario Delgado, keeper of the blends: Another hour or so interview.
3. Visit three top fincas in Vuelta Abajo and interview and photograph owners. Last year, I visited El Pinar de Barbacoa. I would like to go there again and interview the owner and then visit two others which Sr. Pena recommends. He mentioned that he knew two other privately held fincas which would be good to visit.

In addition, I would like to visit each of the key export factories including Jose Mari, Francisco Perez German, Briones-Montoto, Fernando R. Roig, El Laguito and Heroes del Moncada and speak briefly to the managers.

Ende en la celebracion de despus.

I hope this is not asking too much. Thank you in advance for arranging this. If you are too busy to spare some one from your office to go around with me, I could get an interpreter I know in Havana. Thank you again and I look forward to seeing you.

All the best

James

11-15 Highbridge Wharf • Eastney Street • Greenwich • London SE10 9PS
0181-853-2129 • fax 0181-305-2660

Pl. EXHIBIT

1181

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P 024570

*Demando de 100
cupones de 100
pesos en a m. n. n.
y hacer entrega*

P 024570

Suckling is coming on 1/27/96

Look
???

Bernardo
??? of this
Answer in my name and coordinate

Only in the ???

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**Exhibit 1185 to Federal Action Plaintiff's Written Direct
Testimony of Bernardo Gonzalez Silveira, dated May 27, 2003**

JAN-21-1997 23:59

P.01

Rhythm of Silence ^{122.}
Fax ^{231.197.}

To: Lic. Bernardo Gonzalez

Fax#: 011 537. 33 8946

From: John Schindler

Fax#: 213. 467. 2887

Pages: 1

NOTE:

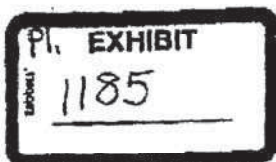
DEAR BERNARDO,

I have sent this fax to thank you because I have had a hard time reaching you by telephone, because the lines are busy. We could not reach you late on Friday because we were out at a Sant. You and us should have dined together but as it worked out, Douglas filmed around the clock from Friday morning until we got off late Saturday night. We did not even stop for meals.

You were very helpful & when we return, we will show our gratitude.

Thank you, John Schindler

TOTAL P.2

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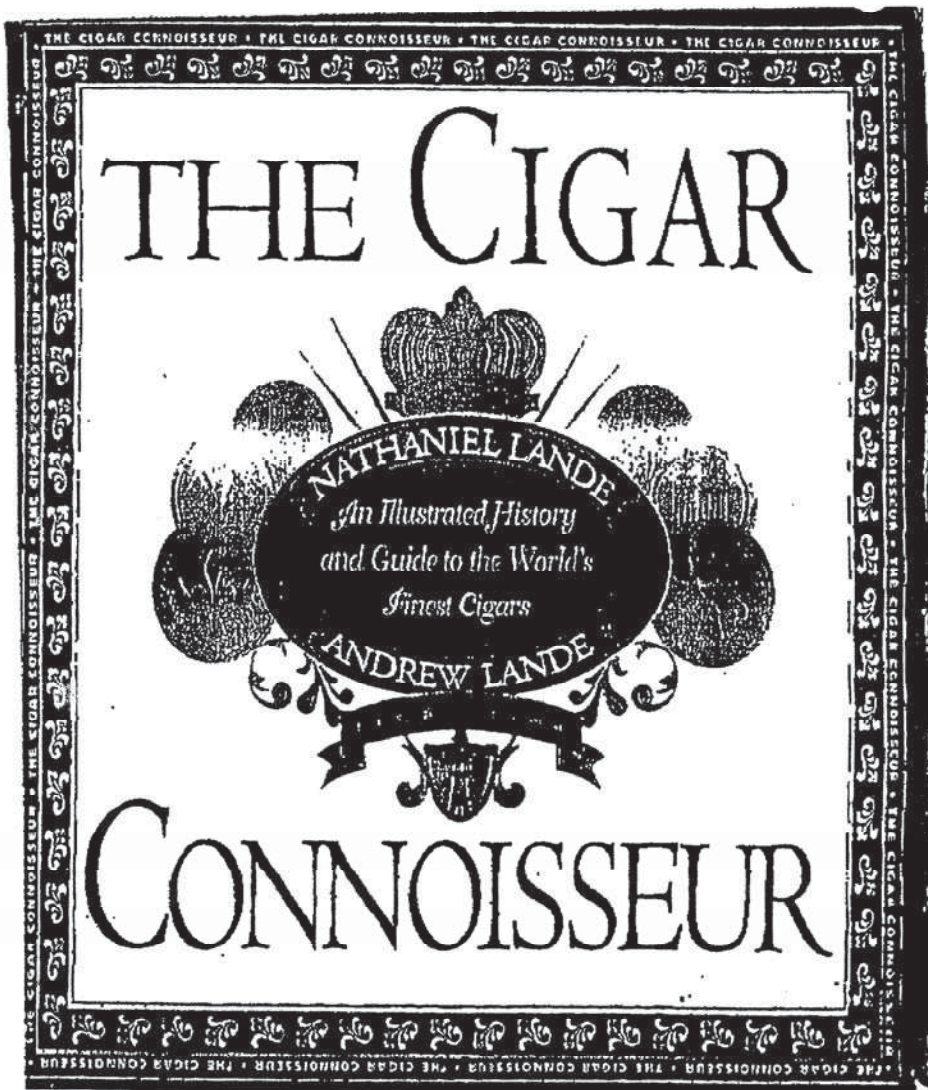
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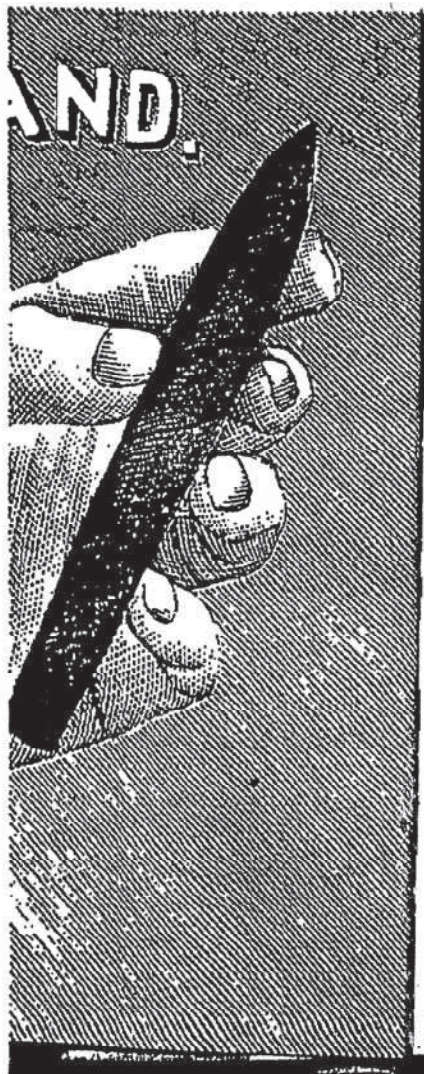
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THE CIGAR CONNOISSEUR



*In Bernardo Gorgolani's
with respect, admiration
and deep appreciation for
helping me in this book -
from his friends,
Michael Lander
and
[Signature]*

** Commendable*

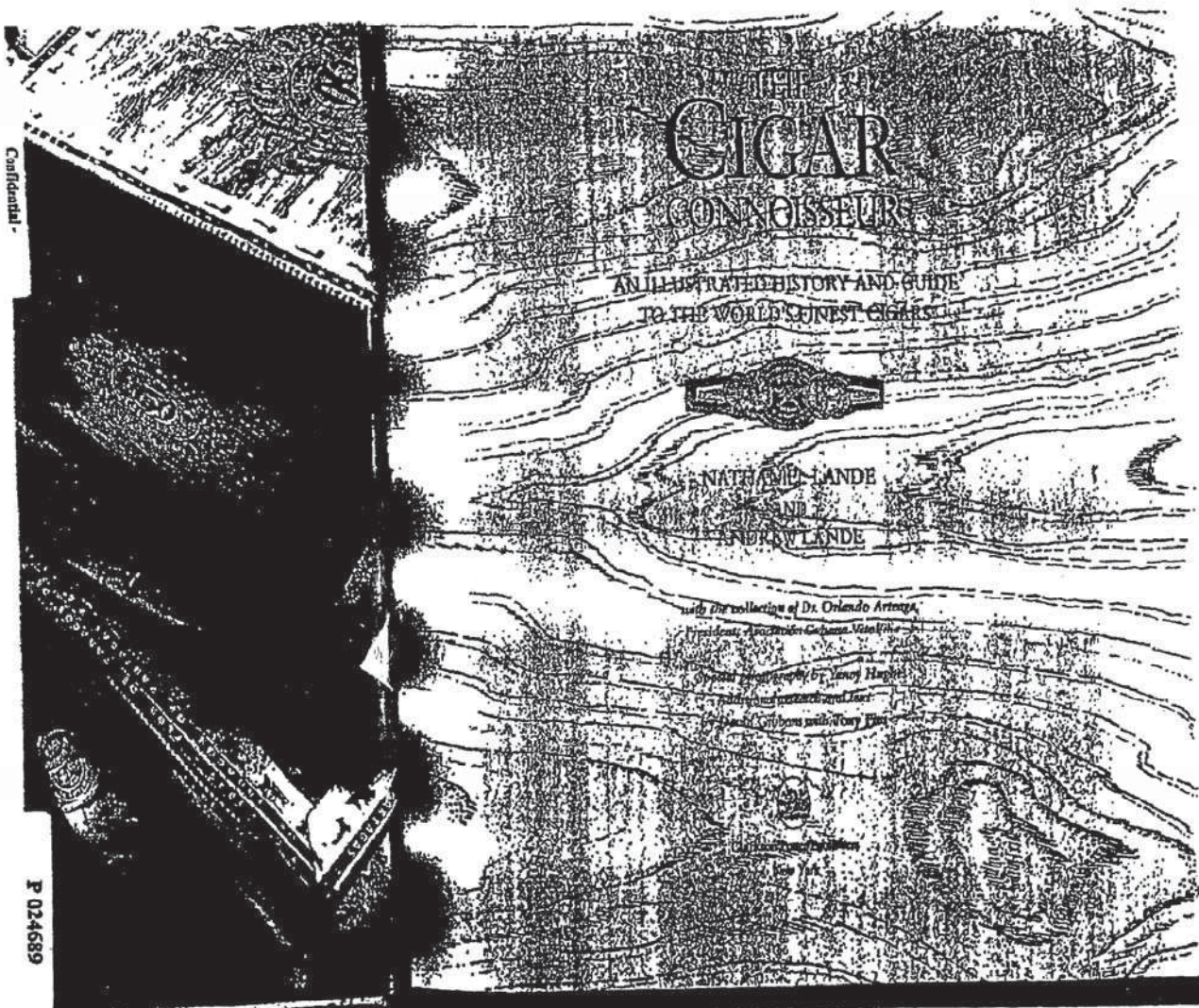
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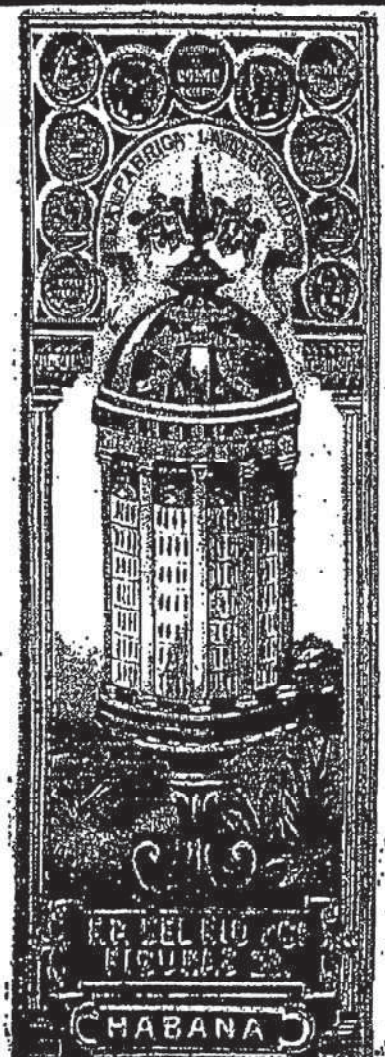
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AND

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**Exhibit 1222 to Federal Action Plaintiff's Written Direct
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COHIBA (CUBA)

Indisputably among the best cigars available, this brand was originally reserved exclusively for Fidel Castro to hand out as gifts of diplomacy. *Cohiba* meant "cigar" to the native Taino Indians of Cuba. Legend has it that one of Castro's bodyguards introduced the president to the cigar maker Eduardo Ribera, who created three sizes: the Lancero, the Corons Especial, and the Panetela. From 1968 until 1994 the factory was run by Avelino Lara, one of four brothers who were expert rollers, but in 1994 Emilio

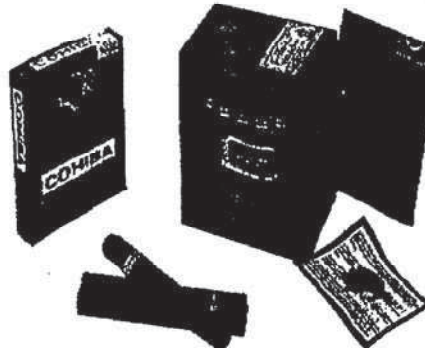
Tamayo became managing director, presiding over the famous Cohiba factory El Laguito, an estate in Havana near Miramar. The majority of the rollers at El Laguito are female, and some Cohibas are now also made at the H. Upmann and Partagas factories.

The secret to their superb, rich smooth flavor is in the leaves, selected from among the top few farms in the Vuelta Abajo growing region, and in the unique third fermentation for the *ligero* and *seco* leaves. In 1992 Cohiba introduced five new sizes in its Siglo series to commemorate the five hundredth anniversary of Columbus's discovery of the Americas.

The original Cohiba is classified as a medium-to-full-flavored cigar among Havanas, while the new line, with its new blend, is a medium. General Cigar registered the trademark in the United States in 1980 and offers a line of non-Cuban Cohibas that don't compare with the Cubans. The genuine Cohiba is among the most expensive and sought-after cigars in the world.

Model	Length	Ring Gauge
Lancero	7 1/2	38
Esplendido	7	47
Coronas Especiales	6	38
Esquisito	5	36
Robusto	4 7/8	30
Panetela	4 1/2	26

Siglo Series	Length	Ring Gauge
Siglo V	6 3/4	43
Siglo 20	6 3/4	42
Siglo 10	5 3/4	46
Siglo 11	5	42
Siglo 1	4	40



COHIBA (CUBA)

Habanos, S.A., launched a lavish charity dinner in 1992 to launch the Cohiba Siglo 10. Cohiba, comes from the Taino Indians, and refers that burns exceedingly well in past times. C. Romeo y Julieta (FPG) favors; they are perfectos, fitting the type of cigars that the nineteenth century was famous. Worldwide distribution mid-1997.

Model
Exclusivo
Generoso
Tradicionales
Divinos



100
P. EXHIBIT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

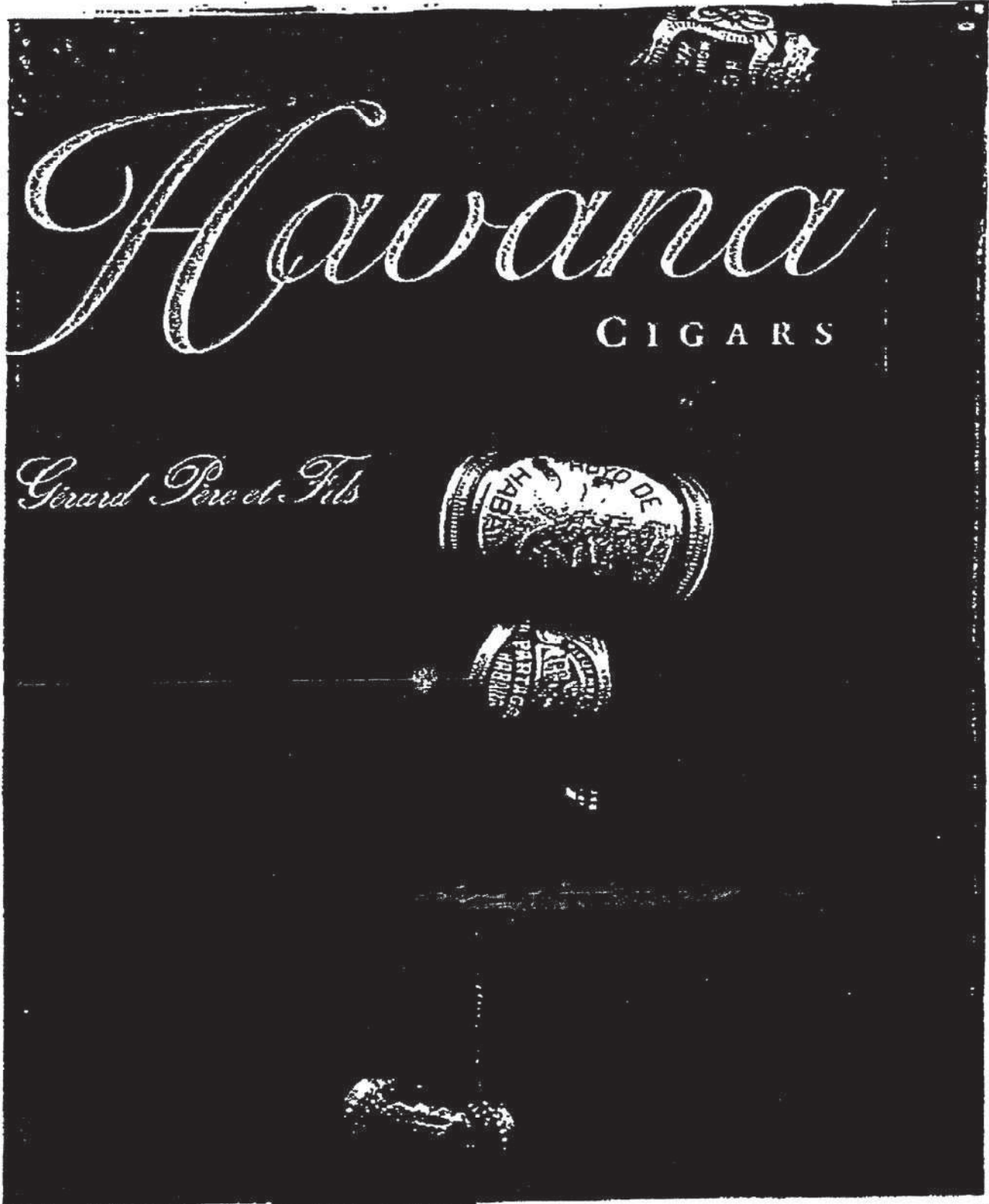
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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
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Petitioner,	:
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v.	:
GENERAL CIGAR CO., INC.	:
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Respondent.	:
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Cancellation No. 92025859

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Exhibit 1227 to Federal Action Plaintiff's Written Direct
Testimony of Bernardo Gonzalez Silveira, dated May 27, 2003**



EXHIBIT

F 021413

Tabbies

1227

To Sévan and his Grandfather

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Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
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Petitioner,	:	
	:	Cancellation No. 92025859
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PARTY OFFERING: PETITIONER

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**Exhibit 1229 to Federal Action Plaintiff's Written Direct
Testimony of Bernardo Gonzalez Silveira, dated May 27, 2003**

THE HAVANA CIGAR

CUBA'S FINEST

BY CHARLES DEL TODESCO

PHOTOGRAPHY BY PATRICK JANTET

PI. EXHIBIT

subfile

1229

P 021406

Sublime tobacco. . . .
Divine in hookas, glorious in a pipe,
When tipp'd with amber, mellow, rich and ripe:
Like other charmers, wooing the caress
More dazzlingly when daring in full dress:
Yet thy true lovers more admire by far
Thy naked beauties—Give me a cigar!

—Byron, *The Island II*, 19.

FRONT COVER: A WOODEN CIGAR HOLD HOLDING TEN "BONCHERAS"
 EACH ONE THE EVENTUAL CORE OF A HAVANA CIGAR
 BACK COVER: THE HISTORIC PARADES BUILDING IN HAVANA
 ENDPAPERS: ASSORTED HAVANA CIGAR BANDS

ENGLISH LANGUAGE EDITION
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Respondent's Designations During Its Trial Period—Green
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DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony of Ari Halper, dated June 2, 2003**

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

WRITTEN DIRECT EXAMINATION TESTIMONY OF ARI HALPER

1. My name is Ari Halper. I am employed by Grey Advertising in New York as a creative director. Grey Advertising is a global advertising agency with approximately 13,000 employees. I was previously employed as an associate creative director at J. Walter Thompson in New York from December 2000 to February 2003 and, before then, I was employed from May 1996 to December 2000 at DDB Needham in Chicago, and at D'arcy, Masius, Benton & Bowles, in New York, from October 1993 to May 1996.

2. I am 33 years old. I graduated from Syracuse University in 1992 with a BS degree in Advertising.

3. The testimony I give here is almost exactly the same as the testimony I gave at my deposition in this case on September 24, 2001. I have used the same words when possible in order to accurately testify as to my understanding as of that date, which is the same as today.

4. The first time I had ever smoked a cigar was at age 13. It was a father/son outing in Alaska, and one of the kids started puffing on one of the father's cigars, and I also tried it. I do not remember what kind of cigar it was.

5. When I go away on an advertising shoot, I almost always smoke a smoke a cigar sometime during the shoot. After I'm done, I usually go out for a night on the town, and that's when I mostly crave cigars. I am almost always with someone from the shoot. I cannot recall specific times when I smoked cigars before I was doing advertising shoots. I do not feel that I am any sort of expert on cigars. I would not consider myself a "cigar smoker."

6. I have purchased cigars between two and five times a year, over the last six or seven years. I have purchased cigars in New York, Toronto, Los Angeles, South Africa, New Zealand, Miami, St. Louis – all the places I go on shoots.

7. I typically buy cigars in cigar shops. I also buy cigars in hotel shops and in their bars and restaurants. I have never bought cigars over the Internet, or by mail order from magazines.

8. I'll experiment occasionally but usually I stick with ones that I've tried before: Cohiba, Davidoff, Partagas, Hoyo de Monterrey, Romeo and Julieta. My favorites are Romeo y Julieta, Hoyo de Monterrey cigarillos and Cohiba, in that order.

9. I probably purchased my first cigar when I was about 25 years old. I probably bought it for my father, I believe either in Toronto or Cape Cod. I have been in Toronto several times, since it is a large area for shooting commercials and we probably shoot more there than in Los Angeles. My father's favorites are probably Partagas, Cohiba, Davidoff, and Montecristo. He buys them at The Tinderbox on Cape Cod, where he lives, and at another store in Hyannis that I cannot remember. We smoke cigars together about twice a year.

10. I have been aware that there are Cuban and non-Cuban versions of Romeo and Julieta, and Davidoff, and Hoyo de Monterrey since I was approximately 25. I was told this either by my father or by a friend, or both.

11. I assume that the reason why there is a Cuban and non-Cuban version of these cigars is because of the unfavorable trade between Cuba and the United States. Cuba has managed to get around that by opening up certain cigar companies in the Dominican Republic run by the same Cuban company, so that they can then export those cigars from the Dominican and legally get around that dynamic.

12. When I am in a foreign country on a shoot, and I can buy the Cubans, Romeo and Julieta is one of the first ones I buy. I doubt that I could legally purchase the Cuban Romeo and Julieta in the

United States. The Hoyo de Monterrey I like is Cuban. I am not sure I have ever smoked the non-Cuban.

13. I first heard of the brand Cohiba in either high school or before high school. Usually it was referred to as the pinnacle of cigars. I probably heard that from my father, or friends of my father. I graduated high school in 1988. At that point, I had read nothing about Cohiba cigars. I was told that Cuban cigars were illegal and that that my father and his friends had purchased them legally, outside of the United States.

14. I probably smoked a Cohiba for the first time in either Toronto or South Africa, in 1996 or maybe 1997. I think someone gave me the cigar. I do not think I purchased the cigar because they are typically very, very expensive. I assumed it was a Cuban Cohiba because I was in a foreign country. I knew at that time that I could not purchase Cuban Cohibas in the United States. I knew that ever since I first heard of Cohibas, I was told that Cuban cigars were illegal.

15. I first purchased a Cuban Cohiba after a commercial shoot somewhere outside of the United States, probably in Toronto in 1999. After that particular shoot, which was one of the more debaucherous shoots I had worked on, we smoked a lot of cigars. It was a debaucherous night, and we went with the pinnacle of cigars because money was no object that night. It was really the company's money. I have purchased Cuban Cohibas maybe once or twice since that evening, probably within the same year back in Toronto.

16. In January 1998, when I was living outside of New York and came to New York for a shoot, I bought a couple of Cohiba cigars. That was the very first time that I knew of Cohiba cigars being sold in the States. It was the winter of 1998. My friend and I were done with a shoot, and purchased them at a retail store in Soho.

17. I decided to buy these cigars because I thought they were the same company that was the Cuban Cohibas, so I was like, wow, they did the same thing basically as all these other companies, so I was like, I can't wait to try them. I had figured that Cohiba did the same thing that Davidoff, Hoyo de Monterrey, and Romeo y Julieta had done, which was open up a Dominican shop within their control to get around the unfavorable trade with the United States. That was the very first time that I saw essentially a legal Cohiba. Also, my friend from the shoot had told me, "Oh, yeah, Cohiba has now, you know, opened up a shop in the Dominican," so he was under the same impression that I was. The cigars I bought had the "O" filled with red.

18. I don't recall what the actual Cuban Cohiba logo is, but, since Cohiba came to the United States, you see it like that brand O all over the place. So, as a result, now I can't think of any other logo than that one.

19. When I bought these cigars in Soho, I did not really talk with the salesperson. I was more with my friend.

20. I next purchased a non-Cuban Cohiba on Cape Cod in Hyannis at a large cigar store, in either 1999 or 2000, where I went with my father. I purchased one cigar. It was larger than I normally get, and I could not finish it. I probably next purchased a non-Cuban Cohiba in Los Angeles on a shoot.

21. The next time I bought a non-Cuban Cohiba was in the summer of 2001. I was in Cape Cod with two of my best friends, for a guy's weekend. We bought a box of six or eight Cohiba cigarillos, and also a box of ten or twelve of Montecristo cigarettos, and Macanudo cigarillos, at The Tinderbox in Mashpee on Cape Cod. I had had the Cohibas before, so I chose the Cohibas. We asked the sales person, a man under 40, for recommendations on how the cigarillos compared, because they

didn't have the one I actually was looking for. He said that the Cohibas were one of the best. We all collectively chipped in.

22. The next day in New York, we met up with two other people, a friend of a friend, and the girl he was out with, who I knew only by her first name, Yasmine, for dessert at the El Parador restaurant in Manhattan, on 34th Street between 1st and 2nd Avenues. We had already had dinner. My friends and I were talking about our drive from Cape Cod, that we had been driving in a Jaguar, since one of my friends worked on the Jaguar account; that we had been smoking cigars, smoking Cohibas, and we were just kind of laughing at ourselves.

23. As a result of our saying we were smoking Cohibas, Yasmine said that she was working on this case and did we realize that the Cuban Cohiba is not the same as the Dominican Cohiba, they're different companies. We were like, "What, what do you mean they're not?"

24. We were all shocked that the Cohibas that we were smoking were not the same company, not the same tradition as the Cuban Cohiba. I believed that they were because of the Davidoff, Hoyo de Monterrey, and Romeo and Julieta history. So many other companies had done it, that it just seemed like another company had done it. So many other Cuban cigar makers had opened up Dominican shops to get around the unfavorable trade between the United States and Cuba.

25. I don't think according to the law that the Cuban company that makes the non-Cuban brand to get around the U.S. trade embargo could actually make it themselves. They have, I guess, trained this company in doing so. They own it but they can't, I guess, actually, physically run it. The Dominicans run it and the connection between the Cubans and the Dominicans is that that the Cubans are the parent company. I would be surprised to find out that this was not the case. The parent companies are Davidoff, Romeo and Julieta, and Hoyo de Monterrey. I do not believe the tobacco in the

Romeo and Julieta cigar that I buy in the United States comes from Cuba. I believe it would still be a Cuban export if it came from Cuba, so therefore it would still be illegal.

26. Until my deposition in this case, I believed the same about Cohiba. The questioning by the lawyer for General Cigar made me think for the first time that Cohiba was not the same as Romeo and Julieta, and Hoyo de Monterrey and Davidoff. I now believe that the company in the Dominican that makes Romeo and Julieta, and the company that makes Hoyo de Monterrey in the Dominican, and the Cuban companies, are the same companies, the same tradition, the same background, the same entities, but, as a result of the questioning at the deposition, I now believe that Cohiba in Cuba and Cohiba in the Dominican are not the same.

27. At the restaurant, Yasmine asked me more questions, and whether I would be willing to testify in the case. I was subsequently contacted by Yasmine and she asked me to be a witness, and I agreed.

28. I do not subscribe to Cigar Aficionado. I flip through the magazine, but I don't know if I actually read the articles. I have seen the ratings. I do not recall whether the magazine rates both the Cuban and non-Cuban versions of various brands of cigar.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

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**Designated Federal Action Plaintiff's Written Direct
Testimony of Kirby Jones, dated May 27, 2003**

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

WRITTEN DIRECT EXAMINATION TESTIMONY OF KIRBY JONES

1. My name is Kirby Jones. I am the President of Alamar Associates, a business consulting firm that I founded in 1975. Alamar specializes in providing consulting services to United States companies and organizations conducting legal trade and business with Cuba in agricultural products and to other companies interested in evaluating and exploring opportunities for postembargo trade with, or investment in, Cuba. Alamar's offices are located at 2300 M Street, NW, Suite 800, Washington, D.C. 20037.

2. I graduated in 1963 from the University of North Carolina. From 1963 until 1967 I worked in the Peace Corps, first in the field as a Peace Corps Volunteer living and working in an urban slum community in Santo Domingo, Dominican Republic, from 1963 to 1965, and then at the Peace Corps' headquarters in Washington, D.C. During this time, I met Frank Mankiewicz, then-head of the Latin America Department of the Peace Corps.

3. After a brief interlude of working with a U.S. Government-funded anti-poverty organization, I joined the presidential campaign of Senator Robert Kennedy in 1968. Frank Mankiewicz was Senator Kennedy's press secretary for the campaign and he hired me to work in the New York State primary election campaign office.

4. After Senator Kennedy was assassinated, I worked briefly for an anti-poverty agency again, and then for Columbia University in its public affairs department. Around 1970, I joined a small public affairs consulting firm in Washington, D.C. but then returned to New York to work in the senatorial campaign of Congressman Richard Ottinger.

5. In 1971, I joined the presidential campaign of Senator George McGovern – first as a political organizer and then as Campaign Deputy and main press secretary. I served in that capacity throughout the campaign until Senator McGovern's defeat by President Nixon in November 1972.

6. After the Presidential campaign, I set up a company in late 1972 with Frank Mankiewicz and a third person to present business seminars and conferences about events and trends in Washington, called the "National Executive Conference."

7. In June 1974, I went to Cuba with Frank Mankiewicz to interview Fidel Castro for a television documentary we had undertaken on a free-lance basis. We spent approximately one month in Cuba and interviewed Castro for about thirteen hours over the course of five days.

8. I first learned of Cohiba cigars during these interviews with Mr. Castro. I observed that Castro was smoking them, had them in his pocket, had them in his jeep and on his desk in his private office. Mankiewicz and I asked him about the cigars and he explained that they were a special brand called Cohibas.

9. On our departure from Cuba, I received at least one box of Cohiba cigars as a gift from Mr. Castro. The box bore the Cohiba label, and each cigar had a band with the Cohiba name on it. Mr. Mankiewicz also received boxes of cigars as gifts at the same time. The gifts were delivered to us by Alfredo Ramirez, a member of Fidel Castro's staff who explained to us that these Cohiba cigars were a gift from "the President." Mr. Castro's card was included with the Cohibas I received. There were 50 Cohiba cigars in each box. I have kept one of the Cohiba boxes I received as a gift from President Castro, either on this first trip or on one of the trips that soon followed, and I identify PX 248 as accurate photographs of the box. Mankiewicz and I received gifts of other brands of cigars from other people on this trip to Cuba, but President Castro only gave us gifts of Cohiba.

10. I brought my gift of Cohiba cigars, as well as the other gifts, back to the United States. I smoked some of the Cohibas and gave others to friends and explained that they were the personal gift and brand of President Castro and the only ones that he presented as gifts.

11. CBS became interested in our project, and, in September 1974, Dan Rather of CBS returned with Mankiewicz and me to Cuba to do additional interviews of President Castro. CBS subsequently broadcast a program combining the two sets of interviews. When we were leaving Cuba, the same person from President Castro's staff that had delivered Cohibas to me and Mankiewicz on the earlier trip showed up. He gave to Dan Rather a gift of cigars from President Castro and I am totally confident they were a gift of Cohibas since these were the only cigars President Castro gave as gifts. I do not recall whether I received gifts of Cohibas during this trip, but I assume so. In 1978, I returned with Rather for an interview with President Castro for CBS's *Sixty Minutes*.

12. In early 1978, Mankiewicz published a magazine article on Cuban cigars in *New York Magazine* based in part on our first trip to Cuba. In this article, Mankiewicz recounts that in 1974, after filming 13 hours of interviews with Castro, he was given "two large, rather ornate wooden boxes of Castro's own brand of cigars," as gifts from President Castro, at least one of which Mankiewicz was requested to give to Henry Kissinger, then-Secretary of State. After describing how he got the cigars through U.S. Customs, Mankiewicz wrote, "Thus it was that Dr. Kissinger acquired a box (but only one) of Cohiba specials (the brand is only used for the 'maximo lider' himself and for his guests)...." The article is reproduced as PX 843.

13. Frank Mankiewicz and I returned to Cuba in February 1975. Mankiewicz and I saw Fidel Castro during this trip and the same member of his staff delivered at least one box of Cohibas to me as a gift. I brought the gift back to the United States. I smoked some of these

cigars and gave some away. All my friends expressed interest in receiving Cohibas because they were known to be Castro's brand.

14. In May 1975, I traveled to Cuba with Senator George McGovern. We spent four or five days in Cuba including several encounters with President Castro. When we were about to depart, the same thing happened as on the other trips: President Castro's staff delivered boxes of cigars to Senator McGovern as we were preparing to depart. I saw the boxes and they were the same Cohiba boxes that I had received in the past. I have no doubt that they were a gift of Cohibas from President Castro. I traveled back to the United States with Mr. McGovern who brought his gifts back with him. I do not recall whether I received any gifts of Cohibas on this trip.

15. I formed Alamar Associates at about this time. I was joined for a few years by Norman Sherman. He had been the press secretary for Hubert Humphrey when Humphrey was Vice-President of the United States. He also had previously worked for Orville Freeman of Minnesota, Chester Bowles of Connecticut, and other politicians and officials.

16. In March or April 1977, Alamar helped the Minnesota Chamber of Commerce organize a trip of business executives from Minnesota to Cuba. There were about 50 to 100 people in the delegation in addition to myself and Norman Sherman. The business executives were from major corporations as well as from smaller companies including several banks, Northwest Airlines and Radisson Hotel. Press from Minnesota accompanied the delegation.

17. The delegation met with a wide range of Cuban government institutions and officials. The president of the Minnesota Chamber of Commerce, Bower Hawthorne, as well as some others from the group, met with President Castro in his office, and there was also a reception for the group attended by President Castro. Norman Sherman and I were present at all these meetings.

18. At the end of the visit, I saw a gift of cigars being delivered to Mr. Hawthorne by a member of President Castro's staff. I am confident that they were gifts of Cohibas since, from my experience, these were the only cigars ever presented as gifts from President Castro. Bower Hawthorne told me at the time that he received gifts of Cohibas from President Castro to deliver to Vice President Mondale, and Senators Humphrey, Abourezk, and McGovern. I subsequently received from Mr. Hawthorne copies of letters addressed to President Castro and the three Senators concerning these gifts of cigars, which I have maintained in my files. I identify PX 61 as those letters.

19. After the Minnesota Chamber of Commerce trip, Alamar arranged for approximately four large delegations from different states in 1978 and 1979. The delegations were made up almost entirely of United States business executives and representatives. The delegation from Massachusetts was led by then-Lieutenant Governor Thomas O'Neill, who was the son of the Speaker of the United States House of Representatives, Tip O'Neill. There were approximately 70 people on this trip. The delegation from California was led by Charles Manatt, who was later chair of the Democratic National Committee, and the founder of a large law firm, and included Micky Kantor, a partner of Manatt and later an official in the Clinton Administration. It consisted of approximately 140 people. The delegation from Illinois consisted of about 70 people. The delegation from Florida consisted of about 30 people. I accompanied each of these delegations.

20. A sample of the companies represented on these trips includes Abbott Laboratories, Arthur Anderson, Boeing, Bristol Meyers, Case, Conigra, Eli Lilly, First National Bank of Chicago, Pillsbury, Riviera Foods, Security Pacific National Bank, Texaco, Toro Corporation, Upjohn and Xerox.

21. Both newspapers and television from the delegation's home state accompanied each of these delegations to Cuba.

22. On these trips, the delegations met with a broad range of government institutions and personalities, including the foreign ministry, various economic ministries, and the central bank. Members of each of these delegations met with President Castro.

23. In addition to these delegations, I took about twelve different corporate clients on separate trips to Cuba between 1978 and 1982. I traveled with some of these clients several times to Cuba. We met with ministries and enterprises in the economic sectors of interest to them.

24. I observed that it was a common occurrence for the Cuban government to make gifts of Cohiba cigars to these group delegations and individual companies. Many received gifts of Cohibas. It was a gift of choice and it was done frequently. I observed that the gifts of Cohibas were received from a wide range of Cuban government institutions. It is possible that a particular delegation or individual company did not receive gifts of Cohibas, but I saw that it was common that they did. I cannot recall any Cuban government institution giving a gift of cigars other than Cohiba during this period. I observed that the persons who met with President Castro invariably received gifts of Cohibas.

25. Many of the members of these group delegations and of the people I took on separate company trips mentioned Cohibas because they had heard about them and they were very eager to obtain some of those cigars while in Cuba. They indicated their understanding that Cohiba was Fidel's cigar. They appeared very excited at the prospect of being able to obtain the cigar. There was no even remotely comparable mention of other brands, if any mention at all.

26. In 1982, after the election of President Reagan, Alamar suspended activities, and I went to work in the public affairs office of the International Finance Corporation, the private investment arm of the World Bank, in Washington, D.C. I continued to travel to Cuba about once per year. During the period 1982 to 1992, I took Maria Shriver to Cuba for an interview with President Castro for the Sunday broadcast of NBC's Today program. (Shriver was a niece of John and Robert Kennedy and the daughter of Sargent Shriver, who had been Director of the Peace Corps for President Kennedy, Ambassador to France, and the Democratic candidate for Vice-President in 1972). In 1986, I conducted a filmed interview with Castro for PBS, which was aired nationally that same year. I met with President Castro several additional times during this period. Then in 1989, I went to Cuba as a consultant to ABC's Nightline, which was covering the Gorbachev visit to Cuba.

27. During the 1982-92 period, the Cuban government institutions with whom I met continued to present gifts of Cohibas to me on a regular basis as well as to those whom I accompanied to Cuba. President Castro's office regularly gave gifts of Cohibas after my meetings with him and regularly gave gifts of Cohibas to those whom I accompanied to meetings with President Castro.

28. Starting sometime in the late 1970's and continuing through 1992, many friends and acquaintances of mine in the United States who knew I was traveling to Cuba, or knew I was involved with Cuba, asked me about Cohiba cigars and asked me to bring them back Cohiba cigars. These conversations and requests came from a wide range of people. They generally were not people who themselves were involved in Cuba affairs. There were no regular conversations about other Cuban cigars or requests for other Cuban cigar brands in anything close to the frequency of the comments and requests about Cohiba.

29. From my first trip to Cuba through 1992, I never knew of, or heard of, President Castro giving a gift of any brand of cigar other than Cohiba.

30. In 1977, the Cuban Interests Section was opened in Washington, D.C. I attended the initial reception to commemorate the opening of the Interests Section, and attended many receptions after that on a continuous basis from 1977 through 1992. Many of these receptions were quite large and boxes of Cohibas were passed around by Cuban officials for people to take and smoke a Cohiba during the event. I also attended numerous dinners throughout this period given at the homes of the head of, and other officials of, the Cuban Interests Section. I observed the same practice of Cuban officials offering Cohibas to the guests. Most of the persons attending these receptions and dinners were United States citizens.

31. From 1977 through the early- or mid-1980's, I received a box of Cohibas from the Cuban Interests Section in Washington, D.C. as a gift once or twice per year, usually around Christmas and sometimes on another occasion. I occasionally received a box of other brands as a gift as well. I did not personally see the Cuban Interests Section give gifts of Cohibas to others, but I am not that special that I alone would have received these gifts. Rather, from everything I knew, this was the common practice of the Cuban Interests Section.

32. Aside from the gifts I received, I have sometimes purchased Cohiba cigars in Cuba that I brought back to the United States for my own personal consumption or to share with friends over dinner. I believe that the first time I purchased Cohibas in Cuba was at a hotel store in Havana during the 1980's. I have purchased Cohiba cigars in Cuba over the course of the past twenty or so years – perhaps not as many as I would like since they are a bit expensive.

33. In the summer of 1992, I joined Burson Marseller, a large public relations

firm, at its Washington, D.C. office. In 1997, I left Burson Marseller and began Alamar's

operations again as a consulting firm specializing in businesses interested in Cuba.

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

WRITTEN DIRECT EXAMINATION TESTIMONY OF ANA LOPEZ GARCIA

1. Me llamo Ana López García y vivo en Línea No. 1005, Plaza, Ciudad de La Habana, Cuba. Empecé a trabajar en Cubatabaco en 1984 y ocupé el cargo de directora del departamento de Marketing desde fines de 1993 hasta septiembre de 1994, cuando pasé a ser directora del departamento de Marketing de Habanos S.A., que proporciona promoción y otros servicios a Cubatabaco para sus marcas. Fuí miembro del Consejo de Dirección de Cubatabaco, que es el consejo que toma decisiones con respecto a las políticas de la compañía, desde 1993 hasta 1994, y luego pasé a ser parte del Consejo de Dirección de Habanos S.A. desde 1994 hasta 1999.

2. Me crié en la Provincia de Pinar del Río, una región donde se cultiva el tabaco. Me gradué en la Universidad de La Habana en 1984 con una licenciatura en Ciencias Económicas, especializándome en economía del comercio exterior. Empecé a trabajar en Cubatabaco en septiembre de 1984 en el departamento que compraba puros de las fábricas cubanas de puros para exportación, incluyendo COHIBA. Ése fue mi primer empleo después de graduarme de la Universidad de La Habana. Trabajé en ese puesto hasta el mes de agosto de 1986, cuando Cubatabaco me seleccionó para continuar mis estudios en el extranjero. Recibí una beca del Centro de Investigación y Docencia Económica en México, donde recibí mi maestría en Ciencias Económicas en 1988. Cubatabaco costó mis gastos de viaje para que estudiara en México.

3. Después de obtener la maestría, regresé a Cubatabaco en octubre de 1988 para trabajar como especialista en mercadeo en el Departamento de Marketing. Mis responsabilidades en calidad de especialista en mercadeo comprendían investigaciones del mercado, trabajando específicamente en la investigación y el desarrollo de estrategias de determinación de precios y posicionamiento de marcas. Participaba en los debates

sobre decisiones y actividades del departamento relacionadas con todos los aspectos de mercadeo, inclusive estrategias de determinación de precios, posicionamiento de marcas, promoción, publicidad y relaciones públicas. Me mantuve en ese puesto hasta fines de 1993, cuando me nombraron directora de Marketing en Cubatabaco. Durante ese período trabajaban aproximadamente 15 personas en el departamento de Marketing de Cubatabaco, sin contar las secretarias y el personal administrativo.

4. Estuve en el puesto de directora de Marketing en Cubatabaco desde diciembre de 1993 hasta octubre de 1994, cuando pasé a ser la primera directora de Marketing de Habanos, S.A., puesto que sigo ocupando hasta la fecha. Desde su formación en 1994, Habanos S.A. se ha ocupado de la promoción y la comercialización de todas las marcas de puros cubanos para la exportación. Como directora de Marketing, primero en Cubatabaco y luego en Habanos S.A., he estado a cargo del departamento responsable por el desarrollo y la puesta en práctica de estrategias y políticas vinculadas a la promoción, la publicidad y la determinación de precios de los puros cubanos, incluyendo los COHIBA.

5. En la época cuando empecé a trabajar en Cubatabaco en 1984, podía leer y entender los materiales escritos en inglés, ya que había estudiado inglés tanto en la secundaria y preuniversitaria, así como en la Universidad de La Habana.

6. Cuando empecé a trabajar en el Departamento de Marketing en 1988, mis jefes me informaron sobre el posicionamiento de los puros cubanos de Cubatabaco, incluidos los COHIBA, a fin de orientar mis actividades. Me informaron que COHIBA gozaba del posicionamiento más alto entre los puros cubanos. Como parte de mi orientación cuando empecé a trabajar en el Departamento de Marketing, revisé números

antiguos de *Cuba Tabaco International*, una publicación en idioma inglés que se distribuía al comercio internacional de puros. Se distribuían números de *Cuba Tabaco International* a los trabajadores de Cubatabaco y yo seguí revisando los números nuevos a medida que iban saliendo. La publicación otorgaba consistentemente a COHIBA el primer lugar entre las marcas de los puros cubanos.

7. La portada del número de julio/diciembre de 1981 (PX51) consiste de una gran fotografía de una caja de puros COHIBA. El primer artículo, titulado “COHIBA, el nombre verdadero del tabaco” describe el origen de la palabra COHIBA como la palabra que describe el tabaco en la lengua indígena de los indios taínos en Cuba, y en el primer párrafo dice que COHIBA es el nombre que se seleccionó para el “puro habano super-especial” que “será lanzado al mercado en breve”. Ese artículo se encuentra en PX51 en P10430.

8. El artículo siguiente “COHIBA: el cigarro de la más alta calidad” informa que “Cohiba... se ha convertido en la primera marca de puros habanos que haya recibido esta alta distinción adjudicada por una comisión de especialistas de los Ministerios del Comercio Exterior, la Industria de la Alimentación, Agricultura, Salud Pública, el Instituto de Investigaciones para la Industria de la Alimentación, el Comité de Normalización del Estado, el Instituto Nacional de Investigaciones Metrológicas, la Comisión de Embalajes y Embotellamiento, y el Sindicato de Trabajadores del Tabaco”. Añade, además, que la Comisión declaró que “Los puros Cohiba tienen cualidades sin igual de aroma, sabor e intensidad”. El artículo también anuncia que “los puros Cohiba estarán a la venta en el mercado internacional a partir de 1982, pero en cantidades limitadas. Hasta la fecha se han usado “únicamente como obsequios y vendidos en

pequeñas cantidades en las tiendas diplomáticas de La Habana y en el Palacio de Convenciones”. Este artículo se encuentra en PX51 en P10436-37.9.

9. En números posteriores de *Cuba Tabaco International*, de 1982 a 1986 se continuó posicionando a COHIBA como la marca más alta y prestigiosa de puros cubanos, tanto en sus artículos como en la publicidad. Por ejemplo, aparecían anuncios de página entera de COHIBA con la leyenda: “COHIBA. LA MÁS DISTINGUIDA.... hasta entre los puros” o con la leyenda: “La mejor de las mejores”. PX77 (P18189-99, 18209, 18226-28), PX500.1 (P23975-77) and PX54 (P10639-41, 10649). Adjunto estos anuncios como Apéndice A a mi testimonio. *Cuba Tabaco International* reportó tanto en 1984 como en 1986 que COHIBA había sido seleccionada dos veces más como producto de calidad superior. PX 500.1 y PX 496.1. Artículos sobre entrevistas con distribuidores los citan elogiando a COHIBA como “un artículo para coleccionistas, una pieza rara... cuyo igual es imposible hallar en ninguna parte del mundo”, “significa todo. Hasta mi casa se llama Cohiba”. Un artículo que apareció en 1983 comentó que COHIBA era “el símbolo de la presencia del puro habano en el Festival de Varadero”. Estos artículos aparecen en PX 77 (P18210-18218). Los números de *Cuba Tabaco International* que demuestran la posición de COHIBA se encuentran en PX 51 (P10426-37), PX54 (P10639-41, P10649, P10708), PX77 (P18198-209, P18210-18, P18226-28), PX496.1 (P024827, 024030, 024047-48, 024073-79) y PX500.1 (P023975-77, P024012-13).

10. Antes de 1990, Cubatabaco tenía en ciertos territorios más de un distribuidor de marcas de puros cubanos. Hacia fines de la década de los 80, Cubatabaco efectuó cambios y estableció un sistema de distribuidores exclusivos para cada territorio.

11. Participé en la preparación de los materiales presentados en la primera reunión de distribuidores exclusivos que se celebró en La Habana en febrero de 1990, a la cual asistí. Hasta fines de los años 80, Cubatabaco no había exigido que sus distribuidores tuvieran una política uniforme de publicidad y promociones para sus marcas.

12. Uno de los documentos en que ayudé a elaborar para la reunión de distribuidores exclusivos en 1990 se llamaba: “Puros habanos: política de marcas”, PX 1143, muestra una pirámide de “Posiciones de marcas”, que coloca a COHIBA único en la cima (P 3149). Adjunto un ejemplar de la pirámide como Apéndice B de mi testimonio.

13. Otro documento de Cubatabaco que se presentó durante la reunión titulado: “Estrategia General de Comunicación de los Puros Habanos” incluye un diagrama en forma de pirámide de la posición de las siete marcas más importantes de Cubatabaco en esa época, siendo COHIBA la que se halla en la cima. PX 1143 (P3158). Este diagrama especifica el concepto promocional seleccionado para cada marca que se ha de usar en todos los mercados. El concepto seleccionado para COHIBA, la marca principal, es “Marca Exclusiva”. (P3158). No se designa a ninguna otra marca en esta forma. Adjunto el pirámide sustraído de esta prueba como Apéndice C de mi testimonio escrito. El diagrama en la página siguiente define el concepto de comercialización de Cubatabaco para COHIBA. A fin de distinguirla de las demás marcas, COHIBA se comercializará como “poseedora de un estilo sumamente elegante” destinada a “un pequeño grupo de los mejores comercios especializados”, a “precios elevados” uniformes en “cantidades limitadas” (P3160).

14. Como parte de los materiales que ayudé a preparar para la reunión de distribuidores en febrero de 1990, Cubatabaco presentó la imagen promocional que debían usar los distribuidores exclusivos para COHIBA a través del mundo, adjuntando una copia de dicha imagen. Lleva la leyenda “El primer nombre del tabaco” . Identifico PX 1143 (P3165) como la imagen de COHIBA establecida en esa reunión y la adjunto como Apéndice D a mi testimonio escrito. Identifico PX1144.1 (P023745-47, P023748-50. P23822-30) como ejemplos de anuncios publicitarios que han adoptado dicha imagen, que se introdujo en revistas a partir de 1990. Aun antes de que se estableciera la imagen en 1990, COHIBA era la única marca que se comercializaba con anuncios usando expresiones que indicaban que era el puro más selecto, o un puro “elevado hasta lo sublime”.

15. COHIBA se hallaba entre un grupo selecto de marcas para las cuales Cubatabaco elaboró imágenes publicitarias en 1990 para su uso uniforme por los distribuidores. Otras marcas para las cuales se habían elaborado imágenes uniformes eran Montecristo, Romeo y Julieta, Partagas y Quintero. Además de promover cada una de estas marcas específicas, Cubatabaco promovió la identificación de las marcas con la denominación de “habanos”, incluyendo la frase: “únicos desde 1492” en sus anuncios de marcas como forma de fortalecer el vínculo con su origen cubano. Ya anteriormente se había creado un vínculo entre “habanos” y COHIBA con la misma finalidad. Se pueden encontrar anuncios con esta vinculación anterior en PX 1144.1.

16. He examinado artículos publicitarios publicados en la prensa de Europa y de Canadá durante el período de 1982 a noviembre de 1992, reunidos en la prueba de la parte demandante PX 1136 (Anexo O). A menudo, cuando aparecía este tipo de artículos,

el personal del Departamento de Marketing los recibía y podíamos verificar el éxito de nuestros esfuerzos de promoción y posición según el tratamiento que la prensa daba a COHIBA. Dado que puedo leer francés y también inglés, podía entender el texto de los artículos que aparecían en la prensa extranjera.

17. Los artículos sobre COHIBA demostraban el éxito de Cubatabaco en sus esfuerzos para colocar a COHIBA como su puro más exclusivo en la cumbre de las marcas de puros cubanos y demuestra que la prensa describía a COHIBA de forma que la distinguía de los demás puros, diciendo que estaba asociada a Fidel Castro como el puro que él fumaba y creado para él, que era de la más alta calidad y el puro cubano más caro, y que se confeccionaba con el tabaco de la mejor calidad de Cuba. Por ejemplo, las revistas belgas dijeron en 1986 y 1987 que COHIBA era “el puro de los reyes, o tal vez deberíamos decir “que es divino” y “Cigar Lovers”, les presentamos el puro de Castro”. En diciembre de 1986, la revista británica *Business* publicó un artículo destacado sobre los puros COHIBA, bajo el título: “El oro enrollado de Cuba”. En 1986, la revista francesa *Lui* declaró “son técnicamente perfectos. Todo fumador digno de su nombre, todo hombre de clase, tiene que tener Cohibas en su humidor”. Más de 20 revistas y periódicos franceses de todas las partes del país cubrieron el lanzamiento de Cohiba en Francia en octubre de 1989, que proclamaba la “llegada de Cohiba”, y vinculaban la trayectoria de COHIBA con Fidel Castro. El número de diciembre de 1989 de la revista *Revue des vins de France* publicó un artículo especial bajo el título: “La saga de los Cohiba”, llamando a los Cohiba “extraordinarios” y diciendo que Castro había pedido a Cubatabaco que creara EL puro absoluto.” Adjunto a este testimonio escrito, como Apéndice E, una lista

de artículos en la prensa extranjera (excluyendo a Estados Unidos) por el período anterior a 1992, reunido en PX 1136.

18. A mediados de los años 80, Gerard Pere et Fils, que era en la época el distribuidor de puros COHIBA en Suiza tanto para los mercados libres de impuestos como para el mercado interno, anunciaba el puro COHIBA como “el mejor de los mejores”. Se adjuntan ejemplares de estos anuncios en PX 501 y 502.

19. Hasta 1989, Cubatabaco usaba tres nombres comerciales para describir las tres vitolas (formato) vendidas bajo la marca COHIBA: Lanceros, Coronas Especiales y Panetelas. Basándome en mis estudios de los puros cubanos, puedo afirmar que los dos primeros nombres jamás habían sido usados anteriormente para los puros cubanos. Durante el tiempo que trabajé para la compañía, Cubatabaco creó líneas adicionales de puros COHIBA. En 1989, Cubatabaco introdujo los COHIBA Espléndidos, Exquisitos y Robustos. Que yo sepa, en base a mis conocimientos de los puros cubanos, ningún otro puro cubano había sido jamás comercializado bajo el nombre “robusto” ni “espléndido” con anterioridad, ni he visto otros puros cubanos que no fueran COHIBA comercializados bajo los nombres “robusto” o “espléndido”.

20. En el primer número de la revista *Cigar Aficionado* apareció un artículo bajo el título: “Robustos the hot cigar of the 90s”, en el cual se hacía una clasificación de los puros fabricados con el formato que *Cigar Aficionado* describió como tamaño “robusto/Rothschild”, pero el único puro que llevaba el nombre “robusto” en ese artículo era COHIBA. Se adjunta un ejemplar del artículo sobre robustos y su calificación en PX 1122(1.1).

21. En 1992, Cubatabaco introdujo la línea Siglo de COHIBA, la cual agregó cinco vitolas nuevas a la marca COHIBA: Siglo I, II, III, IV y V.

22. Cubatabaco aprovechó este lanzamiento de las nuevas vitolas para generar mayor atención para COHIBA. En colaboración con los distribuidores de Cubatabaco, el Departamento de Marketing organizó lanzamientos de las nuevas vitolas en Francia (1989, para el mercado interno), España (1989), La Habana (1992, línea Siglo) Cannes (1993, línea Siglo), Cancún (1994, línea Siglo), Chipre (1994, línea Siglo), Portugal (1994, línea Siglo) y España (1994, línea Siglo). En el Reino Unido y en Bélgica se introdujo la línea Siglo en 1993 por los distribuidores en subastas públicas y el Departamento de Marketing colaboró con la elaboración de materiales promocionales.

23. En los años 80 hasta el mes de noviembre de 1992 (y en lo sucesivo), Cubatabaco estableció el precio de COHIBA como el puro cubano más caro. Esa fue una política sistemática de precios durante todo el tiempo que trabajé en Cubatabaco. Identifico PX 1137(3-24) como documentos de embarque y facturas del período. Estos documentos demuestran la política de precios de Cubatabaco.

24. Por lo menos a partir de 1986 hasta el presente, el precio marcado para COHIBA ha sido considerablemente más elevado que el precio de MONTECRISTO, una marca que se ha vendido en cantidades mucho mayores. La política de precios de Cubatabaco está reflejada en las facturas reunidas en PX1137, que demuestran que si se comparan puros del mismo tamaño y peso, los puros COHIBA se venden a un precio aproximadamente 60% más elevado que los Montecristo del mismo tamaño. Por ejemplo, en 1986, el distribuidor de Cubatabaco, Cogecot, facturaba el COHIBA Lancero en 8,720 francos suizos en comparación con 5,575 francos para los Montecristo Especial, cuyo

tamaño y peso son semejantes. Dicha factura se encuentra adjunta en PX 1137(10). El precio de Siglo II, semejante en tamaño y peso al Montecristo No. 4, la vitola más vendida de Montecristo, es aproximadamente 60% superior al precio de Montecristo No. 4. Las facturas del distribuidor Diramex que se encuentra en PX 1137(19) también demuestran esa diferencia de precio.

25. Que yo sepa, Francia es el único mercado en que se vendieron puros fabricados en Cuba a un precio más elevado que COHIBA. Hubo una época en que el distribuidor del puro Davidoff lo vendía a un precio superior al precio marcado por Cubatabaco para COHIBA. Las discrepancias que surgieron entre Cubatabaco y la compañía Davidoff llevaron a la ruptura de sus relaciones en 1991 y se dejó de producir la marca Davidoff en Cuba.

26. Desde la Revolución Cubana en 1959 y la intervención de las compañías de puros pre-revolucionarias, la mayor parte de los puros cubanos se han vendido en el exterior bajo sus marcas pre-revolucionarias, como Montecristo, H. Upmann, Partagas, Romeo y Julieta y muchos otros. Cohiba, Caney, Siboney, Quai D'Orsay y Diplomáticos fueron excepciones. Las cuatro últimas eran insignificantes en comparación con COHIBA si se miden por su posición, ventas, promoción, precio o cualquier otro criterio. De estas cuatro, únicamente Quai D'Orsay y Diplomáticos permanecen en el mercado. Hasta 1996, no había otras excepciones, y todavía no hay ninguna que se compare en importancia a COHIBA. A diferencia de COHIBA, la marca Davidoff, fabricada en Cuba desde los fines de la década de los 60 hasta 1991, era producto de relaciones con una compañía extranjera que dio su nombre al producto.

27. Cuando empecé a trabajar en Cubatabaco, me designaron un mentor, que era uno de los trabajadores de mayor experiencia en la industria del tabaco en Cuba, quien me informó sobre todos los aspectos de la industria de tabaco, incluyendo los procesos de producción y la diferencia entre las varias marcas vendidas por Cubatabaco. En la década de los 80 también visité las plantaciones donde se cultivaba el tabaco para COHIBA, y donde conversé con los cultivadores. También visité la fábrica que produce los COHIBAS, El Laguito, donde tuve la oportunidad de observar cómo se fabrican los COHIBAS. De estas experiencias y de mis conversaciones con especialistas, aprendí que COHIBA se produce con tabaco cultivado en un número selecto de las mejores plantaciones (vegas) en la región de cultivo de tabaco que se llama Vuelta Abajo en Pinar del Río, cultivadas por los mejores cultivadores de tabaco de Cuba. Una vez cosechadas, las hojas seleccionadas para COHIBA son procesadas en lugares especiales designados únicamente para COHIBA, donde se secan y se fermentan. COHIBA es el único puro que pasa por una tercera fermentación. Los demás puros de calidad pasan por solamente dos fermentaciones. Los habanos COHIBA siempre se han fabricado con tabaco 100% cubano.

28. En 1986, COHIBA recibió la Medalla de Oro con Palmas de Monde Selection, un instituto internacional de selección de calidad que se halla en Bélgica, por ser el mejor producto entre los puros evaluados. En 1988, nuevamente ganó la Medalla de Oro con Palmas de Monde Selection.

29. Cuando empecé a trabajar en Cubatabaco en 1984, el puro COHIBA ya se vendía con un diseño dramáticamente diferente de los demás puros. El diseño de COHIBA empleaba elementos imaginativos, con una silueta estilizada de una cabeza de

indio enmarcada en una hoja de tabaco superpuesta sobre un fondo geométrico cuadrulado en blanco y negro, con el nombre de la marca COHIBA grabado en letras de molde que destacaban en blanco y negro. El fondo cuadrulado y el uso de letras de molde que destacaban en blanco y negro marcaba un rumbo radicalmente diferente del estilo de las marcas que se vendían anteriormente en la industria cigarrera cubana, o que yo sepa, en la venta de puros en cualquier otra parte. Los diseños de otras marcas cubanas eran muy rebuscados, pictóricos, y utilizaban letras de estilo anticuado. Identifico PX37 y 702 (P2342-43) como fotografías del diseño que se usaba para COHIBA en 1984. Existen numerosos ejemplos de diseños tradicionales en el libro *The Journey of the Cuban Cigar* de Antonio Nuñez Jiménez, designado como PX 1223. Los diseños que se muestran en este libro, aparte de los de COHIBA, eran los tipos de diseños que se usaban antes de 1959 y que Cubatabaco siguió usando para los puros que vendía. Adjunto como Apéndice F a mi testimonio escrito PX37 que muestra el diseño de COHIBA y las páginas correspondientes de PX 1223 que proporcionan ejemplos representativos de diseños usados por otras marcas cubanas.

30. Cuando regresé a trabajar a Cubatabaco en 1988 después de pasar dos años estudiando en el extranjero, observé que Cubatabaco había introducido un nuevo diseño para la etiqueta de COHIBA. El nuevo diseño conservaba la silueta de la cabeza de indio sobre un fondo cuadrulado en blanco y negro con el tipo de letra de molde marcada. Sin embargo, se había eliminado la hoja de tabaco y se había cambiado la disposición de los elementos del diseño, resultando en una presentación más refinada y elegante y el nombre COHIBA estaba impreso en oro y no negro, captando la sensación de lujo del producto. Este diseño modificado se usaba también en las cajas de cartón de

cinco paquetes para las tres vitolas originales. También se estaban usando nuevos diseños en las petacas individuales y el anillo del cigarro. Pueden verificarse los nuevos diseños en los anuncios que se publicaron en el otoño de 1987, reunidos en PX1144.1 en la P023753-76, y también en PX703 en la P16733-34.

31. En 1989, como parte de la introducción de las nuevas vitolas – Robusto, Espléndidos y Exquisitos – los puros COHIBA de esas nuevas vitolas se vendían en las tiendas al por menor y en las tiendas de venta libre de impuestos exclusivamente en cajas de madera de 25 puros. La tapa de los cajas era muy sencilla, sin adornos excepto la silueta de la cabeza del indio de perfil y la palabra COHIBA en marcadas letras de molde en negro en la esquina inferior derecha del caja (lugar inusual, ya que la mayoría de las cajas de madera cubanas llevaban el nombre en el centro de la caja). El nombre de la vitola venía escrito en uno de los lados de la caja en marcadas letras de molde. Se colocaba una etiqueta de color en la parte interior de la tapa para los Espléndidos y los Exquisitos y en el papel glassine que envuelve los puros Robustos. Se adjuntan igualmente ejemplares de la caja de madera, etiqueta y anillo que se usaban en los productos en venta en 1989, en PX 703 (P16733-34), que adjunto a la presente como Apéndice G. Los puros COHIBA se han vendido con estos diseños de forma continua desde entonces con el único cambio en 1995 de “Habanos S.A.” en lugar de “Cubatabaco” y la eliminación de la hoja de tabaco en el logo de Cubatabaco, agregando las palabras “Habana, Cuba” en el anillo.

32. Examiné varias fotocopias en blanco y negro y en colores presentadas en este caso con números B00. B0041-46 (PX762) son fotocopias idénticas de la petaca individual del puro en el caso de los puros Cohiba Panetelas que Cubatabaco vendía en

los últimos años de la década de los 80 y a principios de la década de los 90, inclusive el año 1992. Se colocaba un cigarro Cohiba Panetela en su petaca individual, y luego se colocaban cinco petacas individuales dentro del paquete de cinco puros Cohiba Panetela. B0059-64 (PX764) son fotocopias idénticas al caja de madera de Cohiba que acabo de describir, ésta para los Cohiba Espléndidos, que Cubatabaco vendía a fines de la década de los 80 y a principios de los 90, inclusive durante el año 1992, excepto que no hay fotocopia del interior de la tapa, donde se encontraría la etiqueta de color que acabo de describir. B0024 (primera página de PX 767) es un ejemplar en blanco y negro (con marcas rojas escritas a mano) idénticas a la etiqueta que se colocaba en el interior de la tapa de la caja para los puros Cohiba Espléndidos, que Cubatabaco vendía a fines de la década de los 80 y a principios de la década de los años 90, inclusive durante el año 1992. B0032 (PX 769) es una fotocopia idéntica a la lámina delgada de cedro con la que se cubrían los puros Robusto que Cubatabaco vendía en los últimos años de la década de los años 80 y a principios de la década de los 90, inclusive durante el año 1992. B0033-0044 (PX766) son fotocopias de un folleto publicado por un vendedor de tabaco en Hong Kong, Cohiba Cigar Divan, en el Mandarin Hotel, autorizado para vender productos de Cubatabaco. Siendo empleada de Cubatabaco, yo conocía esta tienda y había visto el folleto a principios de los años 90.

33. Examiné una caja de puros Cohiba Espléndidos, incluyendo los artículos que se hallan dentro de PX 927. Esta caja y etiqueta son del tipo que vendía Habanos, S.A., y son idénticos a la caja que Cubatabaco vendía antes del año 1995, excepto por la sustitución de Habanos, S.A. por Cubatabaco y la eliminación del logo con la hoja de tabaco. Dentro del caja se encuentran muestras de paquetes de cinco puros Cohiba

Coronas Especiales y petacas individuales que vendía Habanos, S.A. idénticos a los que Cubatabaco vendía antiguamente, con las mismas diferencias de las cajas de madera.

34. El diseño de COHIBA sigue manteniendo un estilo muy elegante en comparación con todas las demás marcas cubanas, inclusive aquellas que fueron creadas a mediados de la década de los 90, que usan un tipo de letra muy tradicional y elaborado, con los elementos pictóricos que se usaban en las marcas pre-revolucionarias. De las marcas nuevas ninguna incorpora nuevos elementos geométricos marcados que se asemejen a los de COHIBA.

35. Las ventas de exportación de COHIBA empezaron en 1982 con un lanzamiento en España. Examiné la prueba PX 39 , que es una información impresa de una base de datos históricos de las ventas que se encuentran en los archivos de Habanos, S.A., la cual muestra que para el año 1987 las exportaciones de COHIBA en el mercado internacional habían aumentado aproximadamente a 871,075 y que las exportaciones siguieron aumentando continuamente después, con excepciones en 1988 y 1996. La baja temporal en 1988 y 1996 se debió a una fuerte baja temporal en la cosecha de tabaco de alta calidad que se usa para la producción de COHIBA. Luego las exportaciones subieron a 7,866,800 en 1999. Las estadísticas de PX39 y PX 516 indican los siguientes resultados de la exportación de COHIBA:

1987	1988	1989	1990	1991	1992
850,150	668,755	930,610	1,402,440	1,488,425	1,616,894

1993	1994	1995	1996	1999
1,837,920	2,099,830	2,802,175	1,863,575	7,866,800

Adjunto en el Apéndice H un cuadro que indica la progresión de las exportaciones de COHIBA de 1987 a 1992. (La información impresa de los datos para el año 1998 omitió a algunos distribuidores y la información impresa para el año 1997 no parece corresponder a otro informe de ventas, de modo que no he usado los datos para aquellos años en mi testimonio.)

36. Que yo sepa, de acuerdo con lo que se habló durante la declaración prestada por Barbara Leyva, no se mantuvieron registros sistemáticos de las ventas del mercado cubano en la base de datos antes de 1995 y solamente un pequeño porcentaje de las ventas en el mercado cubano está reflejado en las estadísticas de las exportaciones que se hallan en PX 39 para los años anteriores a 1995. Al hacer los cálculos de las exportaciones presentados en el párrafo anterior de este testimonio, resté las ventas en el mercado cubano de los totales indicados en PX 39 y PX 516. PX 39 indica que en 1995 y 1996 las ventas en el mercado cubano eran 245,025 y 165,425 respectivamente. Las estadísticas indicadas en PX 516 indican que las ventas nacionales ascienden en 1999 a 921,250.

37. Antes de 1989 había dos factores que limitaban las cantidades de Cohiba disponibles para exportación: el nivel de producción de tabaco de alta calidad necesario para COHIBA y la capacidad de la fábrica de El Laguito donde se fabricaban los puros Cohiba. En 1989, la producción de COHIBA aumentó cuando se introdujeron las nuevas vitolas en el mercado. Estas dos vitolas – robusto y espléndido – eran fabricadas en otra fábrica por expertos torcedores con experiencia en la producción de estos formatos. Además, aumentó la cantidad de tabaco de alta calidad como resultado de políticas que se habían introducido en años anteriores, incluyendo la creación de reservas de tabaco que

se utiliza para la producción de COHIBA. Para el año 1992, cuando se lanzó la línea Siglo, se aumentó nuevamente la capacidad de producción de COHIBA mediante el aprovechamiento para la nueva mezcla Siglo de tabaco de alta calidad cultivado en vegas que se habían utilizado anteriormente en la producción de tabaco para Davidoff, además de fabricar algunas de esas vitolas en otras fábricas donde los torcedores contaban con la experiencia necesaria para producir estos formatos. Las inversiones adicionales que se hicieron en los años 90 en la producción de tabaco de alta calidad permitieron aumentar considerablemente la cantidad de COHIBA disponible para exportación después de 1996.

38. PX 39 muestra que las ventas en los mercados de Europa Occidental de 1987 a 1992 se duplicaron. Las exportaciones de COHIBA a los mercados de Europa Occidental durante esos años fueron como se indica a continuación:

1987: 558,830

1988: 523,480

1989: 794,030

1990: 1,144,160

1991: 1,158,025

1992: 1,040.615

39. Los mercados para COHIBA también continuaron creciendo después del lanzamiento en el mes de junio de 1982 en España. Cuando empecé a trabajar en Cubatabaco en 1984, ya se estaba exportando COHIBA a Bélgica, Andorra y al Medio Oriente. Recuerdo por haber trabajado en el departamento de compras de Cubatabaco que hubo una época durante el período de 1984 a 1986 en que COHIBA también se exportaba a Suiza y al Reino Unido. La prueba de la parte demandante 39 demuestra que

ya en 1987 se estaba exportando COHIBA a más de 22 países. En Europa en 1987 se vendía en Andorra, Bélgica, las Islas Canarias, Francia, Gibraltar, Holanda, Italia, Luxemburgo, España, Suiza y el Reino Unido. En 1987, también se estaba vendiendo en el Japón, Canadá y México, así como en países del Mediano Oriente, África y Latinoamérica.

40. En la reunión de distribuidores de 1990 que se describió anteriormente, Cubatabaco confirmó a sus distribuidores que COHIBA debía venderse en las tabaquerías más exclusivas, según se demuestra en PX 1143. Sé gracias a mis contactos tanto con distribuidores como con vendedores minoristas de COHIBA, que antes del mes de noviembre de 1992, COHIBA se vendía en las tabaquerías más prestigiosas y más conocidas. Por ejemplo, en Londres COHIBA se vendía principalmente en los comercios más exclusivos, tales como Harrods, Alfred Dunhill, J. J. Fox, Robert Lewis, Davidoff of London y Sauters. En Suiza, COHIBA se vendía mayormente en negocios exclusivos tales como Gerard's en el Noga Hilton y en la tienda de Davidoff en Ginebra, y en Samuel Menzi en Zurich. En Francia COHIBA se vendía principalmente en las tiendas exclusivas tales como La Civette y Georges V. En Cancún, COHIBA se vendía únicamente en la Casa del Habano. Cuando visité Amsterdam en 1989, COHIBA se vendía únicamente en Hajenius, la tabaquería más importante de la ciudad.

41. Desde por lo menos 1988, Cubatabaco ha invitado a los gerentes y al personal de ventas de muchas de sus tiendas más distinguidas, junto con sus distribuidores, a visitar Cuba, como parte de nuestra estrategia promocional para los puros cubanos, especialmente los COHIBA. Los llevamos a visitar la región tabaquera de Vuelta Abajo y a la fábrica de El Laguito.

42. Por haber trabajado en el departamento de ventas, así como en el departamento comercial, puedo identificar cuáles eran los distribuidores que vendían a las tiendas de venta libre de impuestos exclusivamente y cuáles vendían tanto a las tiendas de venta libre de impuestos como a los mercados internos. Por consiguiente, puedo determinar mediante el examen de PX 39 que para el año 1987, COHIBA se estaba vendiendo en las tiendas de venta libre de impuestos en los siguientes países: Bélgica, Francia, Suiza, Italia, España, México, Canadá, el Mediano Oriente, Bélgica y Japón. Las ventas libres de impuestos empezaron en el Reino Unido en 1991 y posiblemente antes.

43. De mi trabajo en el departamento de compras en 1984-1986, conocí que Cubatabaco no podía satisfacer la demanda de COHIBA. En esa época, me di cuenta que mis compañeros de trabajo encargados de comprar puros COHIBA en la fábrica de El Laguito para exportación, no podían satisfacer los pedidos y ocurrían largas demoras para cumplir las ordenes requeridas. Eso también ocurría con algunas otras marcas, pero era un problema especialmente crítico y constante con COHIBA. Había solamente 10 personas en el departamento de compras en esa época y trabajábamos todos juntos en la misma sala. Cuando me incorporé al Departamento de Marketing en 1988, durante mis contactos con minoristas que venían a visitar Cuba me expresaban su deseo de comprar más puros COHIBA que lo que Cubatabaco podía venderles. De la misma manera, después de 1990, me di cuenta a través de mi participación en las reuniones con los distribuidores y más adelante gracias a mis contactos con los distribuidores en calidad de directora del Departamento de Marketing, que Cubatabaco no había podido cumplir con la demanda de COHIBA. A veces, también otras marcas tenían el mismo problema, pero con COHIBA era más grave y más constante. También se hace evidente esta gran

demanda de COHIBA por la forma cómo aumentaron dramáticamente las exportaciones cuando se hizo posible superar los inconvenientes en el volumen de producción.

44. El 23 de abril de 2003, revisé el sitio de la web de General Cigar Company en www.cigarworld.com y me di cuenta que General Cigar lista siete marcas de puros que se producían y se exportaban de Cuba antes de 1960, y que aun se usan para los puros cubanos: Bolivar, Hoyo de Monterey, La Gloria Cubana, Partagas, Punch, Ramon Allones y Sancho Panza. Estas marcas, junto con COHIBA, representan ocho de las trece marcas enumeradas en la página de la web de General Cigar. Sé que estas marcas se producían antes de la revolución debido a un proyecto de investigación que se realizó en Cubatabaco en el que participé en 1990-1991, en el cual examiné materiales existentes en los archivos y otros. Los puros los vendían Cubatabaco y Habanos, S.A. bajo cada una de esas marcas por lo menos desde 1984, cuando empecé a trabajar en Cubatabaco, y según me consta de la investigación que se realizó durante el mencionado proyecto, Cubatabaco los vendía antes de 1984. Además, sé que La Flor de Cano y Rafael González, marcas registradas por General Cigar en Estados Unidos, también son marcas cubanas de los tiempos pre-revolucionarios y continúan siendo marcas cubanas.

45. Las 23 marcas principales que vendía Cubatabaco en 1990 se enumeran en la pirámide de marcas adjunta como Apéndice B (PX 1143), acerca de la cual ya presté testimonio. Sé, por haber examinado *Cigar Aficionado*, libros sobre puros y sitios en la web en Estados Unidos que, además de COHIBA, 18 de éstas también se venden en Estados Unidos. Sé, por haber hecho investigaciones sobre la historia de los puros cubanos que de esas marcas 17 se producían y exportaban desde Cuba antes de 1960. La 18a. marca, Davidoff, se fabricaba y exportaba de Cuba desde los años 60 hasta

principios de los años 90, cuando la compañía Davidoff empezó a producir en la República Dominicana los puros que vende bajo el nombre Davidoff en Estados Unidos y en otras partes.

46. El segundo, tercero y cuarto nivel de la pirámide de 1990 esta integrado exclusivamente por marcas de puros que se venden en Estados Unidos por compañías no cubanas, y el quinto nivel consiste de cinco marcas que se venden en Estados Unidos y solamente una que no se vende, según me consta. Adjunto copia marcada de la pirámide de 1990 como Apéndice I a fin de ilustrar lo antedicho.

47. Puros producidos en Cuba bajo las marcas que se indican en la pirámide continúan vendiéndose internacionalmente, con la excepción de las marcas Caney y Davidoff.

48. En 1995, las diez marcas más importantes que vendía Cubatabaco por volumen eran Montecristo, Partagas, Romeo y Julieta, Quintero, Fonseca, Rafael González, Cohiba, Flor de Cano, Hoyo de Monterrey y Punch. COHIBA era la séptima en orden de volumen. En 1990, Cubatabaco vendía la marca Cifuentes en cantidades muy pequeñas y luego dejó de venderla. La marca Cifuentes ya no se vendía más en 1995. Las marcas Bolívar y Ramón Allones estaban en el 15o. y 20o. lugar en volumen de ventas, respectivamente.

49. Poco tiempo después de integrarme al Departamento de Marketing a fines de 1988, el Director del Departamento me encargó que buscara y recopilara información sobre el mercado de puros estadounidense que pudiese ser útil a Cubatabaco sobre la mejor manera de vender puros en Estados Unidos cuando terminara el embargo. Busqué información sobre las compañías de puros más importantes, los niveles de ventas de

puros y el volumen de importaciones de puros en la época. Además, busqué información de ventas de Cuba a Estados Unidos anteriores a 1959. Recopilé información de revistas especializadas estadounidenses y extranjeras que teníamos en el Departamento Comercial, incluyendo *Tobacco Reporter*, *Tobacco International* y *World Tobacco*. También busqué informes sobre la industria del tabaco publicada por el Departamento de Agricultura de Estados Unidos, así como estudios realizados en Cuba en los años 70 sobre el mercado del tabaco que incluía un capítulo sobre Estados Unidos. Entregué la información que había recopilado a mi jefe.

50. Cubatabaco pensaba vender COHIBA en el mercado estadounidense tan pronto como fuera legalmente posible, y con esta intención, el Departamento de Marketing inició actividades que promovieran y mantuviesen la reputación de COHIBA en Estados Unidos, de forma ininterrumpida durante el período de 1992-1997. Con esa intención, yo, como directora del Departamento desde 1993 al presente, me he esforzado continuamente en fomentar el reconocimiento y mantener la reputación de COHIBA en Estados Unidos durante ese período. Antes de ser nombrada directora, había participado en actividades con el mismo objetivo de acuerdo con las instrucciones que me habían dado de fomentar y mantener a COHIBA así como otras marcas de puros cubanos en la conciencia del consumidor en Estados Unidos.

51. Desde que me integré al Departamento de Marketing, la política y la costumbre del Departamento siempre ha sido la de colaborar con todos los periodistas estadounidenses, y como directora continué con esta política y costumbre. Cuando un periodista estadounidense solicitaba información sobre puros cubanos, las plantaciones tabaqueras, instalaciones de procesamiento o las fabricas, la solicitud llegaba al

Departamento de Marketing, el que encargaba a un especialista para que le prestara colaboración al visitante. Durante el período de 1993–1997, así como más adelante, he dado a los especialistas en mi departamento instrucciones para que facilitaran las visitas de periodistas estadounidenses provenientes de una variedad de medios de comunicación de prensa y electrónicos. Siempre me he asegurado de que el personal de mi departamento les diera preferencia a las solicitudes de información y entrevistas de los periodistas estadounidenses sobre COHIBA y les he dado instrucciones a los especialistas en mi departamento para que facilitasen sus visitas a la fábrica de El Laguito y otras fábricas donde se confeccionan los puros COHIBA, y a visitar las vegas en Vuelta Abajo donde se cultiva el tabaco especial para COHIBA.

52. Durante el período de 1992-1997, así como antes y después, el Departamento Comercial estableció estrechas relaciones de trabajo con periodistas de revistas estadounidenses especializadas en el reportaje dentro de la industria del tabaco y puros, tales como *Cigar Aficionado*, *Smoke*, *Tobacco Reporter* y *Tobacco International*.

53. En 1992, participé en una reunión en La Habana con Marvin Shanken en la cual el Sr. Shanken buscaba el apoyo y la colaboración de Cubatabaco para su publicación de *Cigar Aficionado*, que pensaba lanzar en el transcurso del año 1992. Identifico PX1189 como material que el Sr. Shanken trajo y distribuyó a Cubatabaco en esa reunión. Tanto en los materiales como en su presentación, se describía dicha publicación proyectada como una revista de distinción dirigida hacia los consumidores de puros, que se distribuiría principalmente en Estados Unidos.

54. El material incluía un prototipo parcial de la revista proyectada, que se adjunta en PX 1189. Dichos materiales manifestaban la intención de la revista de poner considerable énfasis en los puros habanos.

55. Durante la reunión, el Sr. Shanken solicitó y Cubatabaco concordó colaborar en su proyecto proporcionando información a los periodistas de *Cigar Aficionado* y ayudándoles durante sus visitas a Cuba para hacer reportajes sobre puros cubanos, combinando inclusive visitas y acompañándolos a las vegas y fábricas vinculadas a la industria cigarrera y combinando entrevistas. Además, en dicha reunión, Cubatabaco concordó colocar anuncios en *Cigar Aficionado* para sus productos. Se informó al personal de Cubatabaco que participaría en la realización de esta decisión, incluyendo al Departamento de Marketing de la decisión, que Cubatabaco prestaría su apoyo a *Cigar Aficionado* y que debían colaborar con *Cigar Aficionado* a fin de promover los puros cubanos, incluida la marca COHIBA, directamente a los fumadores de puros en Estados Unidos, así como a otros consumidores de habla inglesa.

56. En la reunión que tuvo lugar en 1992 entre Cubatabaco y el Sr. Shanken a la que asistí, tanto Shanken como los representantes de Cubatabaco expresaron la opinión de que en el primer número de *Cigar Aficionado* debería publicarse un artículo importante sobre COHIBA. Cubatabaco no sugirió que se escribiera un artículo sobre ninguna otra marca.

57. A fin de facilitar un reportaje de fondo sobre COHIBA para el primer ejemplar, el Departamento Comercial proporcionó al Sr. Suckling y a otros escritores y fotógrafos de *Cigar Aficionado* información sobre COHIBA e hizo los arreglos necesarios para acompañarlos en las visitas a la fábrica de El Laguito para que vieran el

proceso de producción, y fijaron una entrevista con su gerente, Avelino Lara. El Departamento Comercial también hizo arreglos para que estos periodistas visitaran las vegas donde se cultivaba el tabaco para COHIBA.

58. Cubatabaco asimismo decidió que el anuncio que se colocaría en *Cigar Aficionado* sería para COHIBA y ninguna otra marca. El Departamento Comercial coordinó por intermedio de Hunters & Frankau, el distribuidor de Cubatabaco en el Reino Unido, que contratara un anuncio en el primer y segundo ejemplar de *Cigar Aficionado* para COHIBA. El anuncio era de página entera a todo color, que llevaba la leyenda: “COHIBA el primer nombre en puros.” Identifico como prueba de la parte demandante 1135(1) (P020254) y PX 1135(2) (P020167) los anuncios para COHIBA que salieron en esos dos números y los adjunto como Apéndice J a mi testimonio escrito. Cubatabaco pagó por el costo total del anuncio o lo dividió con Hunters & Frankau. Identifico PX 67 como la solicitud de pago y factura para los anuncios.

59. Durante la visita del Sr. Shanken a Cuba cuando vino en busca de apoyo para *Cigar Aficionado*, yo también asistí a la reunión de Distribuidores Exclusivos de Cubatabaco donde el Sr. Shanken tuvo la oportunidad presentar su propuesta sobre la revista *Cigar Aficionado* a los distribuidores exclusivos. se reunió conjuntamente con Cubatabaco y sus distribuidores exclusivos. No recuerdo en este momento si la reunión tuvo lugar antes o después de la reunión entre el Sr. Shaken y Cubatabaco.

60. A partir de esta fecha, el Departamento de Marketing proporcionó ayuda continua a los periodistas de *Cigar Aficionado*, que visitaron Cuba dos o tres veces al año entre 1992 y 1997 y posteriormente. Sus reportajes sobre los puros cubanos se basaban en parte en sus visitas a Cuba y escribían mucho más sobre COHIBA que sobre cualquier

otra marca. Se reproducen los artículos que se referían a Cohiba en los números de *Cigar Aficionado* a través de todo ese período como parte de PX 1122. Los Comprobantes siguientes en PX 1122 contienen artículos basados en los reportajes hechos en Cuba: 1.1 (primer número de agosto de 1992: “The Legend of Cohiba Lovers Everywhere Dream of Cuba’s Finest Cigar”); 2 (diciembre de 1992: “The Treasure of the Vuelta Abajo: Cuba’s Prime Tobacco Region Still Produces Great Cigars,” “Star Cigars of Cuba: Cohiba Robusto,” “Star Cigars of Cuba: Cohiba Esplendido”); 3 (marzo de 1993: “Cohiba’s New Sizes”); 4 (junio de 1993: “The Battle for Montecristo”); 5 (septiembre 1993: “In Search of Davidoffs”); 8 (junio de 1994: “A Late Night with Fidel,” “Not the Real Thing: Counterfeits of the top Cuba Cigar Brands are Flooding the World”); 9 (septiembre de 1994: “The Rolling Rooms”); 10 (diciembre de 1994: “The Band”); 12 (junio de 1995: “Melia Cohiba”); 13 (septiembre de 1995: “The Man who Created Cohiba,” “Forbidden Land”); 14 (diciembre de 1995: “Interview: Pedro Perez,” “The Partagas Family”); 15.1 (marzo de 1996: “The Woman behind COHIBA”); 17 (septiembre de 1996: “The magic of Jose Marti”); 20 (mayo-junio de 1997: “Momentos to Remember: Celebrating Cohiba”); 21 (julio/agosto de 1997: “Happy Birthday, COHIBA”); 22 (sept/octubre de 1997: “Che’s Habanos”).

61. En base a mis reuniones personales con el Sr. Suckling y las instrucciones que di a mi personal para que le brindaran ayuda, sé que el Sr. Suckling, cuyo enfoque principal era COHIBA, venía a Cuba por lo menos una o dos veces por año durante esta época. Siguiendo mis instrucciones, el Departamento de Marketing siempre le otorgaba la más alta prioridad para atenderlo y ayudarlo a coordinar entrevistas y organizar visitas a las fábricas y vegas, inclusive ayudándole a seguir su interés especial en COHIBA. La

correspondencia entre el Sr. Suckling y Bernardo Gonzalez del Departamento Comercial en diciembre de 1996 y enero de 1997 refleja sus solicitudes y los arreglos que hizo Bernardo Gonzalez a fin de facilitar sus investigaciones sobre COHIBA durante sus próximas visitas. Dicha correspondencia se encuentra en PX 1178, PX1181, PX1184, PX1186 y PX1187.

62. En noviembre de 1992, algunos meses después de haber salido el primer ejemplar de *Cigar Aficionado*, Cubatabaco lanzó la línea Siglo1492 de COHIBA durante la celebración del 5o Centenario del desembarque de Cristóbal Colón en Cuba. Cubatabaco invitó al Sr. Shanken y al Sr. Suckling, y ambos asistieron. Como era de esperarse, el número de marzo de 1993 de *Cigar Aficionado* contenía una reseña del lanzamiento de Siglo en La Habana, incluyendo fotos del lanzamiento. El artículo titulado “COHIBA’s New Sizes,” menciona que “todos los Cohiba Siglos son puros extraordinarios” y califica a cada habano de la línea por separado con calificaciones muy elevadas entre 90-96. Se adjuntan copias de estos artículos en PX 1122(3) (P020321-26). Este lanzamiento se planeaba desde principios de 1992. En esta celebración no se festejó ninguna otra marca de puros.

63. El Departamento de Marketing invitó al Sr. Shanken y al Sr. Suckling a una cena ofrecida en septiembre de 1994 para celebrar el 150° aniversario de la marca H. Upmann y a una cena ofrecida en 1995 para celebrar el 150° aniversario de Partagas. Asimismo en en 1996, les envió invitación para asistir a la celebración del 30° aniversario de COHIBA, que se postergó hasta el mes de febrero de 1997, así como a otros eventos celebrados posteriormente. Era la costumbre de Cubatabaco y de Habanos, S.A. costear los gastos de participar en los eventos por lo menos a uno o dos periodistas de la prensa

especializada en el sector tabaquera para que asistieran a cenas u otras actividades donde normalmente se cobraba la entrada a los participantes. De acuerdo con esta costumbre, los costos del Sr. Suckling y del Sr. Shanken para participar en estos eventos públicos que se mencionan arriba fueron asumidos por Cubatabaco y Habanos, S.A. PX 1207 consiste de una lista impresa de los invitados al test de degustación durante las celebraciones del 30°. aniversario de COHIBA, la cual indica que se no se cobraba a los periodistas de *Cigar Aficionado* y otras publicaciones.

64. En 1993 o principios de 1994, indiqué a Bernardo Gonzalez, un especialista del Departamento de Marketing, que preparara un borrador de una carta dirigida a las autoridades cubanas solicitando que se le otorgara al Sr. Shanken una entrevista con el Presidente Castro para la publicación *Cigar Aficionado*. Recuerdo haber aprobado el borrador, el cual describía a *Cigar Aficionado* como la revista especializada más importante de Estados Unidos, que había dedicado reportajes regularmente sobre los puros cubanos, y haberla enviado a la oficina del director. La entrevista del Sr. Shanken fue publicada en el número de junio de 1994 de *Cigar Aficionado*, que dedicó 11 páginas a su entrevista con Fidel Castro, incluyendo fotos de página entera, en la cual habla de los puros cubanos y COHIBA en particular. La portada de ese número tenía un primer plano con el retrato de Fidel Castro con un puro COHIBA en la mano. La portada y la entrevista se encuentran en PX 1122(8) (P020470-86). Se adjuntan a este testimonio la portada y la entrevista como Apéndice K.

65. En 1994, Cubatabaco colaboró con *Cigar Aficionado* en la organización de la “Cena del Siglo” promovido por *Cigar Aficionado* como cena lujosa para fumadores de puros ofrecida a personalidades distinguidas. La cena se celebró en el Laurent Restaurant

en París el 22 de octubre de 1994. Ahora no recuerdo si el Sr. Shanken escribió a principios de 1994 a Cubatabaco solicitando el apoyo y la colaboración de Cubatabaco en este proyecto, o si hizo la solicitud en alguna reunión a la que asistí, pero sí recuerdo que hizo esa solicitud. Recuerdo estar presente en una reunión del Consejo de Dirección de Cubatabaco en la que decidimos que Cubatabaco consentiría, siempre que se promocionase únicamente puros cubanos. Yo sabía en este momento que se invitaría a un gran número de personalidades estadounidenses. Nosotros entendimos que el evento tendría cobertura de *Cigar Aficionado*, y teníamos la esperanza de que esto generaría otros reportajes inclusive en Estados Unidos, dada la asistencia esperada de personajes americanos célebres.

66. Cubatabaco propuso que COHIBA fuera el puro que se destacase. El Sr. Shanken pidió que se crearan nuevas vitolas de habanos COHIBA especialmente para esa cena, vitolas que no existían hasta la fecha. También solicitó que se ofreciera a los invitados un puro Trinidad, una marca que aun no se había introducido en el mercado. Cubatabaco acordó elaborar y proporcionar los puros especiales COHIBA así como los puros Trinidad. El Departamento de Marketing solicitó que las fábricas de El Laguito y Partagas produjeran un puro COHIBA nuevo para esta cena, denominado Torpedo y COHIBA A, vitolas que jamás se habían elaborado anteriormente bajo la marca COHIBA. Cubatabaco proporcionó los puros COHIBA y Trinidad para esa cena libre de costo. Además, el Departamento de Marketing pidió que se confeccionaran cajas especiales para los puros COHIBA y Trinidad, y pidió, además, que se diseñaran e imprimieran certificados especiales para incluirlos dentro de las cajas, especificando que dichos puros habían sido fabricados especialmente para esta cena. Cajas de puros de

COHIBA y Trinidad estaban firmadas por el Presidente Castro para venderlos en subasta durante esta ocasión, siendo el producto de la misma donado a organizaciones caritativas.

67. Como era de esperar, la asociación del cigarro COHIBA con esta función proporcionó publicidad para COHIBA en Estados Unidos. El número de otoño de 1994 de *Cigar Aficionado* hizo la promoción de la cena sobre dos páginas desplegadas, con un encabezamiento a toda plana, rezando: “Sea parte de la historia.” La promoción anunciaba que se servirían dos puros COHIBA nuevos preparados especialmente para esta ocasión. La promoción también publicaba la lista de los miembros del comité de la cena, ocho de los cuales eran hombres de negocios estadounidenses muy distinguidos y personajes famosos. Identifico PX 1220 como copia de esta promoción, que se adjunta a este testimonio como Apéndice L. Los ocho personajes estadounidenses famosos que formaban parte del comité de 22 miembros eran: R.W. Apple Jr., Jefe de la Oficina de Washington de *The New York Times*; Ken Aretsky, Presidente de la Junta Directiva del 21 Club; Francis Ford Coppola, director de cine; Steven Florio, Presidente de Conde Nast Publications; Paul Guarascio, Vice Presidente de General Motors Corporation; Gregory Hines, astro del cine; Jonathan Linen, Vice Presidente de la Junta Directiva de American Express Company; y Gene Pressman, Co-Presidente de la Junta Directiva de Barney’s.

68. El *Miami Herald* (21 de octubre de 1994); el *Commercial Appeal* de Memphis (24 de octubre de 1994) y el *New York Times* (19 de marzo de 1995) todos publicaron artículos sobre la función, destacando a COHIBA. Estos artículos se encuentran en PX 1124(c)(2)(62, 67 y 93). La publicidad obtenido como resultado de este evento repercutió hasta el número de Primavera de 1995 de *Cigar Aficionado* en un artículo titulado: “Great Moments” que describía en detalle la elegante cena y reproducía fotos de

algunos de los 160 invitados que, según se había informado, habían asistido a la misma. Se adjunta copia de dicho artículo que se halla en PX 1122 (11.1) y PX 1219. El artículo menciona los dos puros COHIBA “confeccionados por Cubatabaco exclusivamente para esta cena” además de detalles de la subasta de beneficencias de los numerosas cajas de puros cubanos COHIBA y puros Trinidad, el precio de algunos de ellos que el periodista tradujo como \$700 por puro.

69. En 1995, el Departamento de Marketing preparó un resumen de las actividades promocionales organizadas en 1994, presentándolo en la reunión de distribuidores exclusivos de 1995 en La Habana. Hace mención específicamente a “la cena del siglo” en París como “todo un acontecimiento que nucleó a importantes figuras de la cultural, los negocios y la prensa”, que “promovió y sentó precedentes de la directa comunicación que puede establecerse con nuestro público objetivo y que se traduce en una publicidad indirecta y de relaciones públicas favorables al Habano.” Identifico PX 1197 como copia de dicho resumen.

70. Durante el verano de 1995, el Consejo de Habanos, S.A. decidió nombrar a Marvin Shanken “Hombre del Año de Habanos de la Comunicación” en la cena de septiembre de 1995 celebrada en La Habana para celebrar el 150° aniversario de la marca Partagas. Escribí al Sr. Shanken personalmente para informarle del premio, y estaba presente cuando el Sr Shanken lo aceptó en esa cena.

71. Entre 1992 y fines de 1996, y con posterioridad, me reuní personalmente con numerosos periodistas a fin de proporcionarles información sobre los puros cubanos, incluyendo COHIBA. Entre estos periodistas figuraban Marvin Shanken, David Savona, James Suckling y George Brightman de *Cigar Aficionado*; Aaron Sigmond y Robert

Kemp de *Smoke*; Robert Lockwood de *Smoke and Tobacco International*; Lucia Newmann de CNN; y Gail DeGeorge de *Business Week*. No recuerdo en estos momentos en qué año llegué a conocer a cada uno de estos periodistas. Identifico PX 1216 que contiene copias de las tarjetas de visita que me dieron estos periodistas cuando los conocí en Cuba. Además, me reuní y organicé entrevistas con periodistas de las redes de televisión CNN y CBS. Recuerdo que entre ellos se hallaban los periodistas James Suckling, Aaron Sigmond y Robert Lockwood, que escribían para dos de las revistas más importantes para consumidores de puros, *Cigar Aficionado* y *Smoke*, y que expresaban regularmente interés especial por COHIBA. Lucia Newman de CNN también expresó interés en hacer reportajes sobre COHIBA.

72. Durante los años 90, el Departamento de Marketing trabajó y prestó su colaboración a muchos otros escritores y periodistas de Estados Unidos. Casi todos los periodistas que venían a Cuba para conseguir información sobre puros cubanos pedían información sobre COHIBA. El Departamento Comercial les proporcionaba información y les prestaba su colaboración para programar visitas a fin de que se informaran fundamentalmente sobre COHIBA. Di instrucciones a Bernardo Gonzalez, el especialista en mercadeo responsable principalmente de la atención a la prensa estadounidense y a los visitantes, para que atendiera a estos periodistas que venían a Cuba con fin de preparar artículos sobre los puros cubanos.

73. Las siguientes transmisiones que incluían informes sobre COHIBA se hicieron desde Cuba : 31 de mayo de 1995 (CNN Moneyline, John Mattingly) PX 1126(19); 10 de abril de 1996 (CNN News) PX 1126(21); 27 de febrero de 1997 (CNN World Today) PX 1126(23); 28 de febrero de 1997 (NPR News) PX 1126(24); 23 de

marzo de 1997 (CBS News) PX 1126(20.1); 27 de junio de 1997 (CNN Early Prime) PX 1126(28).

74. En cada uno de los años 1995, 1996 y 1997, Nathaniel Lande, autor de la obra *The Cigar Connoisseur*, estuvo en Cuba para hacer investigaciones y negociar el uso de fotografías y materiales de investigación que eran propiedad de Habanos, S.A para usarlos en su libro. Indiqué a Bernardo Gonzalez que le prestara su ayuda y programara visitas a El Laguito y a la región de plantaciones tabaqueras de Vuelta Abajo. Participé en las reuniones con Lande para negociar el contrato para el uso de esas fotografías y materiales en su libro, el cual se publicó finalmente en Estados Unidos en 1997. Identifico PX 1199 como el contrato que se celebró entre Habanos, S.A. y Nathaniel Lande el 16 de mayo de 1996. La obra dedica bastante atención a COHIBA y Lande incluye los nombres de varias personas de Habanos, S.A. en sus reconocimientos al principio de la obra, incluyendo a Bernardo Gonzalez y a mí. Identifico PX 1222 como copia de *The Cigar Connoisseur*, publicado en 1997, y PX 1198 (páginas seleccionadas). Adjunto al presente testimonio la portada y las páginas sobre COHIBA como Apéndice M.

75. También participé en las negociaciones con TFH Publications, una editora estadounidense, interesada en la publicación y distribución de libros sobre puros cubanos en Estados Unidos. Entre 1994 y 1996 se celebraron contratos para la obra *The Journey of the Cuban Cigar* de Antonio Nuñez Jimenez, que contiene material sobre COHIBA. El primer contrato para la publicación de este libro se firmó entre TFH y Consulting Prime, S.L., que representaba a Cubatabaco el 4 de septiembre de 1994. El segundo contrato se firmó entre Havana House, que representaba a Habanos, S.A. y TFH el 1 de

enero de 1996. Identifico PX 1200 y 1203 como copias de estos contratos. Identifico PX 1223 como copia del libro *The Journey of the Cuban Cigar* de Antonio Nuñez Jimenez, publicado por TFH Publications en Estados Unidos.

76. Entre 1992 y 1997, me reuní con varios autores que vinieron a Cuba para hacer investigaciones para libros sobre habanos, inclusive COHIBA. Entre los que recuerdo haber conocido figuran: Nancy Stout, autora de *The Story of the Havana Cigar* (New York 1997); J. J. Kaplan, colaborador de Richard B. Perelman, autor de *Perelman's Pocket Cyclopedia of Havana Cigars* (Los Angeles, 1996); y Theo Rudman, autor de *Rudman's Complete Guide to Cigars* (Chicago, 1995). Identifico PX 1224, 1225, 1226 y 1230 como copias de estos libros, respectivamente. Ha habido otros, pero no recuerdo específicamente sus nombres. Cada uno de los libros mencionados contiene secciones significativas laudatorias sobre COHIBA.

77. Entre 1992 y 1997 vinieron varios productores de películas de cine estadounidenses para hacer videos sobre puros cubanos, incluyendo COHIBA. Recuerdo específicamente que el Departamento de Marketing prestó su colaboración a Rick Dees quien produjo "Cigars! The New Rage" (1996). Identifico PX 1233 y PX 1204 (copia de la portada) como el video que produjo Rick Dees el cual contiene metraje filmado sobre puros cubanos, con énfasis específico en COHIBA. Este video incluye una entrevista con Avelino Lara, director de la fábrica de El Laguito donde se confeccionan los COHIBA. También recuerdo que vinieron productores de películas para filmar un video llamado "Rhythm & Smoke" y le dije a Bernardo Gonzalez, un especialista en el Departamento Comercial que les ayudara. Identifico PX 1183 como una carta con fecha del 11 de

febrero de 1997, escrita por John Schindler de “Rhythm & Smoke” dirigida a Bernardo Gonzalez solicitando ayuda para filmar algo adicional.

78. Durante el período de 1992 – 1997 (y posteriormente), el Departamento de Marketing se suscribió y recibió revistas para consumidores y para la industria del tabaco publicadas en Estados Unidos. Estas revistas son: *Cigar Aficionado*, *Smoke*, *Tobacco Reporter* y *Tobacco International*.

79. Además de recibir estas publicaciones estadounidenses, el Departamento de Marketing recibía artículos de otras publicaciones que nos enviaban, y conservó muchos de estos artículos, incluyendo artículos sobre COHIBA. Identifico PX 1218 como copias de artículos que mencionan COHIBA que se hallan en este archivo y los identifiqué como PX1188, siendo copias del número del 15 de febrero de 1992 de *Wine Spectator* en los archivos del Departamento Comercial.

80. El Departamento de Marketing ha continuado las actividades que he descrito aquí en apoyo de *Cigar Aficionado*, *Smoke*, periodistas estadounidenses y autores hasta el presente, incluyendo sus reportajes sobre COHIBA.

81. Entre 1992 y 1997, Cubatabaco y Habanos, S.A. organizaron importantes eventos para la promoción de los puros cubanos en Cuba a los cuales se invitó a numerosas personas de Estados Unidos para que asistieran. El Departamento de Marketing tenía la responsabilidad principal de planificación y producción de estos eventos, incluyendo la elaboración de las listas de invitados y el envío de las invitaciones.

82. Ya mencioné que el primer evento de este tipo, fue la presentación de la línea Siglo en el 500o aniversario del descubrimiento de las Américas por los españoles, que tuvo lugar en noviembre de 1992. Este evento fue concebido como un lanzamiento muy

significativo para la nueva línea de habanos COHIBA. El Departamento de Marketing acudió a la prensa estadounidense para lograr publicidad al lanzamiento en Estados Unidos a la vez que se estaba anunciando COHIBA en *Cigar Aficionado*. Más o menos en septiembre de 1992, Cubatabaco envió invitaciones junto con información sobre la nueva línea a los periodistas estadounidenses, incluyendo los periodistas de *Cigar Aficionado*, *Tobacco Reporter* y *Tobacco International*. Recuerdo que entre los invitados figuraban representantes de *Cigar Aficionado* y *Tobacco Reporter*. Al evento asistieron aproximadamente 200 especialistas en puros, distribuidores, minoristas, periodistas y otras personalidades provenientes de todo el mundo, incluido Estados Unidos. Como ya se mencionó, *Cigar Aficionado* le dio bastante cobertura al lanzamiento de los Siglos en este evento y le dio una evaluación muy favorable a la nueva línea Siglo, describiendo a cada una vitola detalladamente.

83. En septiembre de 1994, Cubatabaco celebró la primera de una serie de cenas destacando sus puros y degustaciones con invitados internacionales, incluyendo personas invitadas de Estados Unidos. Mandé invitaciones a *Tobacco International*, *Tobacco Reporter* y *Cigar Aficionado*. Identifico PX 1190 y 1191 como copias de las invitaciones que envié a *Tobacco International* y a *Tobacco Reporter*, respectivamente, y PX 1193 en que el Sr. Matlock de *Tobacco Reporter* expresa que lamenta no poder asistir Esa cena marcó el 150o aniversario de la marca H. Upmann.

84. Un año más tarde, en 1995, Habanos, S.A. organizó el 150o aniversario de la marca Partagas, a la cual se invitaron personalidades de Estados Unidos y miembros de la prensa. Identifico PX 1174, 1175 y 1176 como listas de las personas invitadas a esta función, incluyendo a más de 30 personas de Estados Unidos. Entre las personas que

asistieron a esta función de Estados Unidos se hallaban Marvin Shanken, George Brightman y James Suckling de *Cigar Aficionado*, cuatro escritores de Lockwood Publications, la editora de *Smoke y Tobacco International*, cinco representantes de TFH Publications, John S. Kavulich de US/Cuba Trade Council, los actores Matt Dillon, Seymore Cassel y Joey Pantoliano, el productor de cine James Orr, Lawrence Crowe de *The Robb Report* y el escritor Mark Morman. Un artículo sobre dicha función escrito por Mark Morman fue publicado en el número de junio de 1996 en la publicación estadounidense *The Robb Report*. Identifico PX 1155 (P023722-25) como copia de dicho artículo. Identifico PX1192 una carta dirigida por John S. Kavulich a Adriano Martinez de Habanos, S.A., solicitando ayuda con la visa del Sr. Crowe del *The Robb Report* para poder asistir a dicha función.

85. Participé en las discusiones de planificación en Habanos, S.A. a fines de 1995 cuando resolvimos organizar una celebración de gala para marcar el 30° aniversario de COHIBA que tendría lugar en 1996. A principios de 1996, resolvimos postergar la función hasta 1997 a fin de dar suficiente tiempo para los extensos preparativos y su realización que serían necesarios para una celebración de esta envergadura y también para que los participantes pudieran visitar las vegas para ver las plantaciones del tabaco utilizada en la marca COHIBA. El Departamento de Marketing llevó a cabo la planificación para esta función empezando a principios de 1996, elaborando las listas de invitados en 1996. La celebración del 30° aniversario tuvo lugar en La Habana durante la última semana de febrero de 1997.

86. Desde el principio, el Departamento de Marketing concibió esta celebración como un esmerado festival de gala que atrayera a importantes personalidades y mucha

animación en la prensa internacional. Este evento se planificó para que fuera la mayor celebración de puros organizada en Cuba o en cualquier otra parte. Cuando se compiló la lista de invitados, incluimos deliberadamente una amplia gama de miembros de la prensa estadounidense, tanto popular como especializada, personajes célebres y personas de negocio. Asistieron más de 800 personas, incluyendo casi 100 personas de Estados Unidos. Identifico PX 1177, 1173 y 1209 como listas de invitados a la celebración. Entre las personas invitadas, estaban: seis periodistas de *Cigar Aficionado*; cinco periodistas de Lockwood Publications *Smoke y Tobacco International*; Chris Glass, periodista de *Tobacco Reporter*, representantes de TFH Publishing; John Kavulich de US/Cuba Trade Council; representantes de la National Tobacco Company; y los artistas de cine Matt Dillon y Peter Weller. Identifico PX 1179 como la carta recibida de John S. Kavulich del US/Cuba Trade Council dirigida a mí solicitando asientos marcados para 12 personas para esta función. Identifico como PX 1213 una copia del programa para la cena que el Departamento de Marketing elaboró para el uso del maestro de ceremonias. Los periodistas de *Tobacco International y Smoke* intercambiaron correspondencia en varias oportunidades en relación con su interés en asistir al 30° aniversario. Dicha correspondencia se encuentra en PX1214, PX1182 y PX 1210.

87. El trabajo relacionado con el 30° aniversario empezó en sus detalles a mediados de 1996. A principios de julio se organizaron reuniones con los gerentes del Tropicana Nightclub, un amplio restaurante-cabaret donde se iría celebrar la función, y se siguió trabajando durante el resto del año 1996 y principios de 1997. Se elaboró un menú especial apropiado para la ocasión bajo la dirección de uno de los chefs más prestigiosos de Cuba. Identifico los documentos en PX 1234 como los documentos de fecha más

antigua que hemos encontrado en nuestros archivos relacionados con las reuniones de planificación celebradas con Tropicana. Sus fechas son 25 de junio de 1996, 1 de julio de 1996, 3 de julio de 1996 y 8 de julio de 1996.

88. Durante las etapas iniciales de planificación, el Departamento de Marketing sugirió al presidente de Habanos, S.A. que sería espectacular que el Presidente Fidel Castro estuviera presente durante la cena, tanto por su vínculo personal con la creación del habano puro COHIBA como por el reconocimiento de su prestigio que conferiría su presencia, y por el enorme impacto que su presencia ejercería sobre la prensa. Participé en la conferencia de prensa que tuvo lugar en enero de 1997 anunciando el evento en que varios periodistas preguntaron si el Presidente Castro estaría presente. En la época yo no sabía si el Presidente Castro asistiría o no, de modo que dijimos a la prensa que esto era una posibilidad. Tal como lo anticipé, la mera sugestión de que él asistiría desató una ráfaga de atención por parte de la prensa internacional que resultó en más de 35 artículos en la prensa de los Estados Unidos en anticipación de la función, mencionando a Fidel Castro, especulando sobre quién estaba invitado y quién asistiría. Estos artículos se hallan en PX 1124(C) (2)(271-287, 290-298, 300-306, 10, 311-13, 315). Yo asistí a la cena. La presencia de Fidel Castro en la cena creó una ráfaga de emoción entre los asistentes y la prensa. Treinta artículos más relatando el acontecimiento en la prensa estadounidense se encuentran en PX 1124(C)(2)(314, 316, 318, 319-21, 323-26, 328-33, 335, 337-46, 349, 351, 352-55 y 359).

89. En 1996, el Departamento de Marketing encomendó que se diseñaran y se imprimiesen anillos especiales para los puros COHIBA para la ocasión, así como obsequios de recuerdo de lujo conmemorando el 30° aniversario del diseño de COHIBA,

como humidores y ceniceros. Según se había planeado en 1996, se invitó a los asistentes a visitar la fábrica de El Laguito, que había sido renovada especialmente para esta ocasión durante el año, y se les llevó a visitar la región de plantaciones de tabaco de Vuelta Abajo en Pinar del Río donde se cultiva el tabaco para los habanos COHIBA.

90. De acuerdo con lo que se había planeado, un gran número de periodistas estadounidenses, más de 30 de ellos, participaron o contaban con credenciales para hacer un reportaje sobre la ocasión, y se les había dado acceso a todos ellos a El Laguito, la región de Vuelta Abajo y entrevistas con el personal de Habanos, S.A. NBC y CNN hicieron el reportaje de la celebración, así como los periodistas de las revistas especializadas de puros. Los periodistas estadounidenses con credenciales para hacer el reportaje sobre esta celebración a través del Centro de Prensa Internacional en La Habana representaban a *The Philadelphia Inquirer*, CBS News, Associated Press, *Newsweek*, *Spin Magazine*, *Time*, *Caribbean Travel News*, *Smoke Video*, *Los Angeles Times*, y *People Magazine*. Los miembros de la prensa fueron atendidos por los especialistas del Departamento de Marketing. Identifico PX 1173(P024496) como una copia de la lista de periodistas con credenciales en el Centro de Prensa Internacional en Cuba para hacer el reportaje de la celebración.

91. Las revistas más importantes de consumidores de puros *Cigar Aficionado* y *Smoke*, numerosos escritores de ambas revistas que habían sido invitados, hicieron reportajes extensos sobre el 30° aniversario de Cohiba. *Cigar Aficionado* publicó artículos en su número mayo/junio y julio/agosto de 1997. Estos artículos se encuentran en PX1122 (20, 21) “Moments to Remember” y “Happy Birthday, Cohiba”. El número de verano de 1997 de la revista *Smoke* publicó un despliegue de seis páginas titulado

“Cuba’s Pride, The Legendary Cohiba celebrates thirty years of prosperity as the reigning king of Cuban cigars.” Este artículo se encuentra en PX1130 (5).

92. A principios de 1996, la red de televisión estadounidense CNN solicitó permiso para empezar un reportaje sobre la celebración del aniversario. Con la ayuda de Habanos, S.A., CNN empezó a filmar en la primavera de 1996 con un reportaje sobre la fabricación de los habanos, que se difundió el 10 de abril de 1996. Se adjunta copia del metraje difundido por CNN el 10 de abril de 1996, con su transcripción que se encuentra en PX 1126(21). Recuerdo que el equipo de CNN y los periodistas también regresaron a fines de 1996 para rodar una película en El Laguito y llevar numerosas entrevistas con cubanos vinculados con la producción y venta de habanos COHIBA. CNN también filmó la celebración misma. Revisé el reportaje de CNN sobre la celebración que se encuentra en PX 1126(23) y es un reflejo correcto de la cena de celebración y de las actividades adicionales. Además de los informes de CNN, CBS también difundió un informe especial por Jane Robelot sobre COHIBA en su programa “Sunday Morning” que incluyó metraje de la celebración del 30° aniversario y de la fábrica de El Laguito. Se encuentra copia del informe de CBS, junto con su transcripción, en PX 1126(20.1). La National Public Radio introdujo su difusión en vivo desde La Habana el 28 de febrero de 1997 sobre la industria cubana del tabaco con una introducción sobre el 30° aniversario de Cohiba. Se encuentra copia de la transcripción de dicho informe en PX1126(24).

93. Como parte de la celebración del 30° aniversario, se organizó una degustación aún más exclusiva de puros en la fábrica de El Laguito, el 28 de febrero de 1997, a la cual fueron invitadas 130 personas. Se invitaron a catorce personajes famosos y a periodistas estadounidenses a este acontecimiento, incluyendo a un grupo de nueve escritores de

Cigar Aficionado, *Smoke y Tobacco International*. Habanos, S.A. invitó al famoso artista de cine estadounidense Matt Dillon, para que participase como uno de los cinco miembros del grupo de degustación de los puros COHIBA en esa ocasión. Identifico PX1212 como libro del maestro de ceremonias en ese acontecimiento en el cual aparece Matt Dillon, como uno de los cinco miembros que integraría el panel formado por personas de diferentes países. Identifico PX 1206 y 1207 como listas de los invitados a participar en la función de degustación.

94. Además, el Departamento de Marketing mandó que se confeccionaran cajas especiales para los puros COHIBA que se iban a preparar para una subasta en dicha ocasión, cuya utilidad se destinó a sufragar servicios de salud pública en Cuba. Las cajas que se vendieron en subasta estaban firmadas por Fidel Castro.

95. En febrero de 1994, el director de Cubatabaco me dio un caja de puros con el nombre de COHIBA en la tapa. El fondo del caja tenía las palabras “fabricado en la República Dominicana y distribuidos por Alfred Dunhill”. Los puros que se encontraban dentro del caja no llevaban anillo, y no había ninguna otra identificación del producto aparte del nombre impreso en la tapa. Dentro del caja había una nota escrita a mano por Tom Hinds, un distribuidor de Cubatabaco en Canadá, que decía “This box of Cohiba is produced by General Cigar for trademark registration in the U.S.A. only. This is not to be sold as a regular item. That is why you only see the name Cohiba. The cigar is??? Tom” (subrayado en el original). Identifico PX 995 como fotocopias de dicha caja y nota, y PX 953 como original. Entiendo que esta nota significa que estos puros no eran para la venta comercial, pero solamente para fines de registrar la marca. Es normal que el

Departamento de Marketing conserve muestras de la competencia y de los productos hechos internacionalmente. Guardé esta caja en un humidificador.

96. Recuerdo y creo que Tom Hinds estuvo en Cuba a fines de enero de 1994 y que entregó la caja a la persona que era el director de Cubatabaco en la época. Tom Hinds había enviado un telex a Cubatabaco avisando que llegaría a la Habana el 30 de enero de 1994.

97. Resumo algunos de los elementos del agravio que Cubatabaco ha sufrido, y continuará sufriendo, por el registro de General Cigar y el uso de la marca registrada Cohiba en Estados Unidos. No trataré de abordar lo que entienda yo puedan ser los asuntos jurídicos.

98. Cubatabaco quiere y tiene la intención de vender los puros Cohiba bajo el nombre Cohiba en Estados Unidos una vez que haya acabado el embargo. Según entiendo yo, el registro de General Cigar y el uso de la marca Cohiba impedirán que Cubatabaco lo pueda hacer.

99. El goodwill del Cohiba cubano (su nombre y su reputación) en los Estados Unidos es sustancial. No creo que sería posible para ningún otro tabaco cubano desarrollar un goodwill comparable en los Estados Unidos. Aún si fuera posible, se necesitarían muchos años, y gastar enormes cantidades de dinero para poder hacerlo.

100. El Cohiba cubano es especial porque se le percibe y asocia con el presidente Fidel Castro. Esto es de gran valor comercial para generar ventas en Estados Unidos después del embargo, y es algo que no se podrá duplicar.

101. El Cohiba cubano se ha promocionado y propuesto durante más de dos décadas como el mejor de todos los puros cubanos; se ha ganado un puesto excepcional

entre los puros cubanos y en general se considera como el mejor puro de Cuba. Esto es de gran valor comercial para generar ventas después del embargo en los Estados Unidos.

102. Por estas razones, si Cubatabaco no puede vender los Cohibas cubanos bajo el nombre Cohiba en los Estados Unidos después del fin del embargo, perderá un activo de valor enorme e irremplazable, y la capacidad de Cubatabaco para poder vender su producto en Estados Unidos después del embargo se vera sustancialmente perjudicada.

103. El Cohiba cubano se ha promocionado y comercializado siempre partiendo de la base de su origen cubano, y porque se fabrica con tabaco cubano. Su identidad como un puro cubano, fabricado totalmente con tabaco cubano, es esencial para su éxito en Estados Unidos y en el ámbito internacional. Al fabricar un puro usando el nombre "Cohiba" que no es un puro cubano, y que no se fabrica con tabaco cubano, General Cigar disminuye la capacidad de que sea el nombre "Cohiba" el que identifique a un puro cubano, fabricado totalmente de tabaco cubano, para los consumidores estadounidenses. Esto disminuye la capacidad de Cubatabaco de vender los habanos Cohiba en Estados Unidos después del embargo, y perjudica la imagen y la reputación internacionales del Cohiba cubano.

104. Cubatabaco ha invertido tiempo, esfuerzo y dinero considerables para fomentar y mantener el goodwill del Cohiba cubano en Estados Unidos. Asimismo, ha invertido cantidades considerables de tiempo, esfuerzo y dinero para fomentar y mantener el goodwill del Cohiba cubano en el ámbito internacional, lo cual ha aumentado el valor extrínseco del Cohiba cubano en Estados Unidos. Además, Cubatabaco ha aumentado el goodwill del Cohiba cubano en los Estados Unidos e internacionalmente seleccionando el mejor tabaco cubano para los puros Cohiba. Cubatabaco perderá sustancialmente el valor

de estas inversiones si no puede vender los habanos Cohiba bajo el nombre Cohiba en los Estados Unidos después del embargo.

105. Cubatabaco desea hacer publicidad de sus puros Cohiba en Estados Unidos y comprende que no lo puede hacer a causa del registro por parte de General Cigar y del uso de la marca Cohiba.

106. El que Cubatabaco no pueda hacer publicidad de Cohiba en los Estados Unidos perjudica su capacidad de ampliar por medio de la publicidad las oportunidades de ventas de los puros Cohiba cubanos en los Estados Unidos después del embargo, y de ventas después del embargo a personas estadounidenses que visiten Cuba u otros lugares. También perjudica la capacidad actual de vender los habanos Cohiba a personas estadounidenses que visiten Cuba.

107. Para Cubatabaco siempre ha sido de suma importancia poder controlar la identidad y la reputación del Cohiba cubano. El uso de General Cigar del nombre Cohiba disminuye su capacidad de poder hacerlo con los consumidores estadounidenses.

108. Cubatabaco ha tratado de distinguir al Cohiba cubano de todos los otros habanos, y establecerlo como un producto exclusivo y aparte de todos los otros habanos. La confusión de los consumidores estadounidenses entre el Cohiba cubano y el Cohiba de General Cigar tiende a anular estos esfuerzos, y perjudica la identidad y la reputación establecida del Cohiba cubano como un producto distinto y singular, único en su clase, producto que emana de una fuente única. Esto disminuye la capacidad de Cubatabaco de vender habanos Cohibas en Estados Unidos después del embargo y perjudica la reputación actual internacional de la marca.

109. Este prejuicio se produciría si existiesen las siguientes formas de confusión entre los consumidores.

(a) Que los consumidores estadounidenses creyesen que el Cohiba de General Cigar y el Cohiba cubano son los mismos.

(b) Que los consumidores estadounidenses creyesen que la misma compañía que fabrica o vende el Cohiba cubano fabrica o exporta a Estados Unidos el Cohiba de General Cigar

(c) Que los consumidores estadounidenses creyesen que existe una asociación o afiliación entre el fabricante o exportador a los Estados Unidos del cohiba de General Cigar y el fabricante o vendedor del Cohiba cubano; o que uno la otorgado licencia, o haya autorizado o aprobado que el otro use el nombre cohiba; o

(d) Que los consumidores estadounidenses creyesen que los que fabrican el Cohiba de General Cigar (o sus sucesores) hayan anteriormente fabricado el Cohiba cubano en Cuba.

110. La confusión entre los consumidores estadounidenses causada por el uso de la marca Cohiba por parte de General Cigar perjudica la reputación y la percepción del Cohiba cubano y lleva a los consumidores a tener una idea equivocada de la naturaleza y la calidad del Cohiba cubano, que son diferentes de aquellas del Cohiba de General Cigar.

111. El Cohiba cubano ha recibido constantemente mejor clasificación en *Cigar Aficionado* y en otras publicaciones que el COHIBA de General Cigar. Adjunto a mi testimonio por escrito como Apéndice N una gráfica que lo ilustra, que está basada en las clasificaciones de *Cigar Aficionado* en los ejemplares PX 1122, 1123 Y 1140.

Cualquier confusión en los consumidores estadounidenses entre el Cohiba cubano y el Cohiba de General Cigar perjudica al Cohiba cubano dado que el público atribuirá al Cohiba de General Cigar la clasificación superior que se ha ganado, y el público atribuirá la clasificación inferior que General Cigar se ha ganado al Cohiba cubano.

112. La confusión entre el Cohiba de General Cigar y el cubano disminuirá las futuras ventas del Cohiba cubano en los Estados Unidos después del embargo y las ventas futuras en personas estadounidenses cuando viajen al extranjero. Disminuirá las ventas actuales a los visitantes estadounidenses en Cuba, quienes creerán que pueden comprar el mismo puro o uno parecido en los Estados Unidos, o que se formaran una opinión negativa de los habanos Cohiba basada en la reputación del Cohiba de General Cigar o por su experiencia con esa marca.

113. El Cohiba cubano ha sido promocionado como extraordinario y único en su género, y su valor y atracción radica en gran medida en que se percibe de esa manera. El uso por parte de General Cigar del nombre Cohiba para sus puros disminuye el presente y futuro poder y fortaleza de la marca registrada Cohiba en Estados Unidos para atraer la atención al Cohiba cubano e identificar al COHIBA cubano como un producto extraordinario y único en su clase. Esto perjudica la capacidad de poder vender el Cohiba cubano en Estados Unidos después del embargo

114. La información sobre los puros, y su reputación, dentro de los Estados Unidos se extiende al extranjero, por medio de las publicaciones en Estados Unidos y los viajes. Al usar el nombre Cohiba dentro de los Estados Unidos, General Cigar también perjudica la identidad, el renombre y la reputación del Cohiba cubano fuera de los Estados Unidos.

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AFFIDAVIT OF ACCURACY

I the undersigned, Carmen S. Barros, translator with eighteen years experience, residing at 39 East, 20th Street, 9th Floor, New York, New York 10003, hereby certify that I have compared the attached Spanish and English texts and that they are the same statement in the two different languages.

May 22 2003
DATE

Carmen S. Barros
SIGNATURE

CERTIFIED INTERPRETER, FEDERAL COURTS

CERTIFIED INTERPRETER AND TRANSLATOR, STATE OF NEW YORK

APPROVED INTERPRETER IN THE STATE OF NEW JERSEY

ACCREDITED, AMERICAN TRANSLATORS ASSOCIATION

NAJIT/SSTI NATIONAL CERTIFICATION

State of New York)
) ss
City of New York)

Be It Known, that on the 22nd day of May 2003, before me, EVE GINIGER a Notary Public in and for the State of New York duly commissioned and sworn, dwelling in the State of New York, personally came and appeared CARMEN S. BARROS to me personally known, and known to me to be the same person who executed and signed the enclosed document.

In Testimony Whereof, I have hereunto subscribed my name and affixed my seal of office the day and year last above written.

Eve Giniger

EVE GINIGER
Notary Public, State of New York
No. 43-4750333
Qualified in Richmond County
Commission Expires 5/31/03

1. My name is Ana Lopez Garcia and I reside at Linea No. 1005, Plaza, City of Havana, Cuba. I began working at Cubatabaco in 1984 and I served as Director of the Marketing Department from late 1993 until September 1994. I then became the Director of the Marketing Department of Habanos, S.A., which provides promotion and other services to Cubatabaco with respect to its brands. I was a member of Cubatabaco's "Consejo de Dirección" (Council of Direction), the body that made policy decisions for the company, from 1993 until 1994 and then served on the Consejo de Dirección of Habanos, S.A. from 1994 through 1999.

2. I grew up in the province of Pinar Del Rio, a tobacco growing area. I graduated from the University of Havana in 1984 where I earned a degree in economics, specializing in the economics of foreign trade. I first started working at Cubatabaco in September 1984 in the department that purchased cigars from the Cuban cigar factories for export, including COHIBA. This was my first job after graduating from the University of Havana. I worked in this position until August 1986, at which time Cubatabaco selected me to study abroad. I received a scholarship from the Centro de Investigación y Docencia Económica in Mexico from which I obtained a master's degree in economics in 1988. Cubatabaco paid my travel expenses for me to study in Mexico.

3. After completing my master's degree, I returned to work at Cubatabaco in October 1988 as a marketing specialist in the Marketing Department. My responsibilities as a marketing specialist included undertaking general market research and working specifically on the research and development of price strategies and brand positioning. I participated in the department's discussions of decisions and activities concerning all aspects of marketing, including pricing strategies, brand positioning, promotion, publicity and public relations. I remained in this job until I was named Director of Marketing at Cubatabaco at the end of 1993.

During this period, approximately 15 people worked in the Marketing Department of Cubatabaco, excluding secretaries and clerical staff.

4. I held the position of Director of Marketing in Cubatabaco from December 1993 until October 1994, when I became the first Director of Marketing at Habanos, S.A., a position I continue to hold today. From its formation in 1994, Habanos, S.A. has been responsible for the promotion and marketing of all Cuban export cigar brands. As Director of Marketing, first at Cubatabaco and later at Habanos, S.A., I have overseen the department responsible for the development and implementation of strategies and policies related to the promotion, advertising and pricing of Cuban cigars, including COHIBA.

5. At the time I started working at Cubatabaco in 1984 I could read and understand materials written in English, having studied English both in secondary school, preuniversity and at the University of Havana.

6. When I began working in the Marketing Department in 1988, I was informed by my superiors of Cubatabaco's positioning of Cuban cigars, including COHIBA, to guide my activities. I was informed by them that COHIBA was positioned at the pinnacle of Cuban cigars. As part of my orientation when I began working in the Marketing Department, I reviewed the past issues of *Cuba Tabaco International*, a publication in English distributed to the international cigar trade. Copies of *Cuba Tabaco International* were distributed to the workers of Cubatabaco, and I continued to review issues as they were published. The publication consistently positioned COHIBA as the premier brand of Cuban cigars.

7. The cover of the July-December 1981 issue (PX51) consists of a large photograph of a box of COHIBA cigars. The first article, entitled "COHIBA, tobacco's real name" describes the origins of the word COHIBA as the word for tobacco in the tongue of the indigenous Taino

Indians of Cuba, and in the first paragraph states that COHIBA is the name chosen for “the super-special Havana cigar” that “will soon be out on the market.” This article is found in PX51 at P10430.

8. The following article, “COHIBA: the highest quality cigar,” reports that “Cohiba...becomes the first brand of Havana cigars to receive this high distinction awarded by a commission of specialists from the ministries of Foreign Trade, the Food Industry, Agriculture, Public Health, the Research Institute for the Food Industry, the State Normalization Committee, the National Institute of Metrological Research, the National Packaging and Bottling Commission and the Tobacco Workers Union.” Further, it states that the commission reported that “Cohiba has unequaled qualities of aroma, flavor and strength.” The article also announces that “The Cohiba cigars will be available on the international market as of 1982, although in small quantities. Until now they have only been used as gifts and sold in limited quantities in Havana’s diplomatic stores and the Palace of Conventions.” This article is found in PX 51 at pages P10436-37.

9. Subsequent issues of *Cuba Tabaco International* from 1982 through 1986 continued to position COHIBA as the highest and most prestigious brand of Cuban cigars in both articles and advertisements. For example, full page advertisements for COHIBA appeared with the legend: “COHIBA: THE MOST DISTINGUISHED...even among the Havana Cigars” or with the legend “The better among the best.” PX77 (P18198-99, 18209, 18226-28), PX 500.1 (P023975-77) and PX 54 (10639-41, 10649). I attach these advertisements as Appendix A to my testimony. *Cuba Tabaco International* reported in both 1984 and 1986 that COHIBA had been selected twice more as a product of superior quality. PX500.1 and PX 496.1 Articles containing interviews with distributors quote them as praising COHIBA as “a collector’s item, a rare

piece...whose equal can't be found anywhere in the world," "it means everything. Even my house is called 'Cohiba.'" An article appearing in 1983 noted the COHIBA as the "symbol of Havana cigar's presence at the Varadero Festival." These articles appear at PX 77 (P18210-18218). The issues of *Cuba Tabaco International* demonstrating the positioning of COHIBA are found in PX 51 (P10426-37), PX 54 (P10639-41, P10649, P10708), PX 77 (P18198-209, P18210-18, P18226-28), PX 496.1 (P024027, P024030, P024047-48, P024073-79) and PX500.1 (P023975-77, P024012-13).

10. Prior to 1990, Cubatabaco had more than one distributor for Cuban brands in some territories. Toward the end of the 1980s Cubatabaco changed to a system of exclusive distributors for each territory.

11. I participated in the preparation of the materials Cubatabaco presented at the first meeting of exclusive distributors held in Havana in February 1990, which I attended. Until the late 1980s, Cubatabaco had not imposed on its distributors a uniform advertising and promotional policy for its brands.

12. One of the documents I helped prepare for the 1990 meeting of exclusive distributors, entitled "Havana Cigars: Brand Policy," PX 1143, presents a pyramid of "Brand Positioning" that places COHIBA alone at the very top. (P 3149) I attach a copy of the pyramid as Appendix B to my testimony.

13. Another Cubatabaco document presented at the meeting, entitled "Estrategia General de Comunicación de los Puros Habanos" ("General publicity strategy for Cuban Cigars"), includes a pyramid diagram of Cubatabaco's positioning of the seven most important brands at that time, the one at the top being COHIBA. PX 1143 (P3158) This diagram specifies the promotional concept selected for each brand to be used in all markets. The concept selected

for COHIBA, the top brand, is labeled “Exclusive Brand.” (P3158) No other brands are so designated. I attach this chart as Appendix C to my written testimony. The chart on the following page sets out Cubatabaco’s marketing concept for COHIBA. As distinct from the other brands, COHIBA is to be marketed “in a highly elegant style” to “a small group of the best specialized stores,” at uniform “elevated prices” in “limited volumes.” (P3160)

14. As part of the materials I helped to prepare for the February 1990 distributors meeting, Cubatabaco presented the promotional image to be used for COHIBA throughout the world by the exclusive distributors and attached a copy of that image. It bears the legend “El primer nombre del tabaco” (“The first name in Cigars”). I identify PX 1143 (P3165) as the image of COHIBA established at this meeting, and I attach it as Appendix D to my written testimony. I identify PX 1144.1 (P023745-47, P023748-50, P023822-30) as examples of advertisements adopting this image as inserted in magazines starting in 1990. Even before the 1990 image was established, COHIBA alone was marketed with advertisements that used terms indicating that it was the most select of cigars or a cigar “elevated to the sublime.”

15. COHIBA was among the select group of brands for which Cubatabaco developed advertising images in 1990 to be used uniformly by distributors. The other brands for which uniform images were developed were Montecristo, Romeo y Julieta, Partagas and Quintero. In addition to promoting each of these specific brands, Cubatabaco has promoted the identification of the brands with the name “habanos,” including the phrase “unique since 1492” in its brand advertising as a way of strengthening the connection with their Cuban origin. There had been earlier linkage of “habanos” with COHIBA for the same purpose. Advertisements showing this earlier linkage are found at PX 1144.1.

16. I have examined press articles published in Europe and Canada for the period 1982 through November 1992 collected in Plaintiff's Exhibit PX 1136 (Schedule O). Often when such articles appeared, the staff of the Marketing Department received them and we could see the success of our efforts to promote and position COHIBA as measured by the treatment given COHIBA in the press. Since I can read French as well as English, I could understand the content of articles in the foreign press.

17. The articles reporting on COHIBA demonstrated the success of Cubatabaco in its effort to position COHIBA as its most exclusive cigar at the pinnacle of Cuban cigar brands and shows that the press reported on COHIBA in a way that distinguished it from all other cigars, reporting that it is associated with Fidel Castro as the cigar created for and smoked by him, that it is the highest quality and most expensive Cuban cigar and that it is made from the highest quality Cuban tobacco. For example, Belgian magazines reported in 1986 and 1987 that the COHIBA is "a royal cigar, or shall we say divine" and "Cigar lovers, here is the cigar of Castro." In December 1989, the British magazine *Business* ran a prominent story about COHIBA cigars entitled "Cuba's rolled gold." In 1986, the French magazine *Lui* states "they are technically perfect. Every smoker worthy of the name, every man of breeding has to have Cohibas in the humidor." More than 20 French newspapers and magazines nationwide covered the COHIBA launch in France in October 1989, in which they herald that "Cohiba arrives" and connect the story of COHIBA with Fidel Castro. The December 1989 issue of *Revue de vin de France* featured a major article entitled "The Saga of the Cohiba," calling the Cohiba "extraordinary" and stating that Castro "asked Cubatabaco to create THE absolute cigar." I attach to this written testimony as Appendix E a list of foreign articles (excluding the United States) for the pre-1992 period collected in PX 1136.

18. In the mid-1980s, Gerard Pere et Fils, the then distributor of COHIBA cigars in Switzerland for both the duty free and domestic markets, advertised the COHIBA cigar as the “Best of the Best.” Copies of those advertisements are found in PX 501 and 502.

19. Until 1989, Cubatabaco used three commercial names to describe the three vitolas (format) sold under the brand COHIBA: Lanceros, Coronas Especiales and Panetelas. From my study of Cuban cigars, I can say that the first two names had not been used before for Cuban cigars. During the time I was at the company, Cubatabaco created additional lines of COHIBA cigars. In 1989, Cubatabaco introduced the COHIBA Esplendidos, Exquisitos and Robustos. To my knowledge, from my study of Cuban cigars, no other Cuban cigar had ever been marketed under the name “robusto” or “esplendido” previously and I have not seen any Cuban cigars other than COHIBA marketed under the name “robusto” or “esplendido.”

20. The premier issue of *Cigar Aficionado* ran a story entitled “Robustos the hot cigar of the 90s” in which it rated numerous cigars manufactured in the format of what *Cigar Aficionado* labeled the “robusto/Rothschild” cigar size, but the only cigar bearing the name “robusto” in this article is COHIBA. A copy of the article on robustos and the rating chart are found in Plaintiff's Exhibit 1122(1.1).

21. In 1992, Cubatabaco presented the Siglo line of COHIBA, which added five new sizes to the COHIBA brand: Siglo I, II, III, IV and V.

22. Cubatabaco used the addition of new size ranges as an occasion to generate additional attention for COHIBA. The Marketing Department, in collaboration with Cubatabaco's distributors, carried out launches of the new vitolas in France (1989, for domestic market), Spain (1989); Havana (1992, Siglo line), Cannes (1993, Siglo line), Cancun (1994, Siglo line), Cyprus (1994 Siglo line), Portugal (1994, Siglo line), and Spain (1994, Siglo line).

In the United Kingdom and in Belgium in 1993, the Siglo line was introduced by the distributors by public auctions with which the Marketing Department collaborated in the development of promotional materials.

23. During the 1980s through November 1992 (and thereafter), Cubatabaco priced COHIBA as the most expensive Cuban cigar. This was the consistent pricing policy for the entire time I was at Cubatabaco. I identify PX 1137(3-24) as shipping documents and invoices from this period. They demonstrate Cubatabaco's pricing policy.

24. At least from the period 1986 to the present, the price set for the COHIBA has been significantly higher than the MONTECRISTO, a brand that has sold in far greater quantities. The pricing policy of Cubatabaco is reflected in invoices collected in PX 1137, which show that when cigars of comparable size and weight are compared COHIBA cigars sell at prices approximately 60% higher than the comparable size Montecristo. For example, in 1986, the COHIBA lancero was being invoiced by Cubatabaco's distributor Cogecot for 8.720 Swiss Franks compared to 5.575 for the Montecristo Especial, which is comparable in size and weight. This invoice is found at PX 1137(10). The Siglo II, comparable in size and weight to the Montecristo No. 4, the best selling vitola of Montecristo, is priced about 60% higher than the Montecristo No. 4. Invoices of the distributor Diramex found at PX 1137(19) also show this price differential.

25. To my knowledge, France was the only market in which a cigar manufactured in Cuba sold at prices higher than COHIBA. For a time, the Davidoff cigar was priced by the distributor at prices higher than those set by Cubatabaco for COHIBA. Disputes between Cubatabaco and the Davidoff company lead to the dissolution of their relationship in 1991 and the Davidoff brand ceased to be produced in Cuba.

26. Since the Cuban Revolution in 1959, and the intervention of the pre-Revolution cigar companies, most Cuban cigars have been marketed internationally under the pre-Revolution brand names, such as Montecristo, H. Upmann, Partagas, Romeo y Julieta and many more. Cohiba, Caney, Siboney, Quai D'Orsay and Diplomaticos were exceptions. The latter four were insignificant compared to COHIBA as measured by positioning, sales, promotion, price or any other criteria. Of these four, only Quai D'Orsay and Diplomaticos continue to be marketed. Until 1996, there were no other exceptions, and there are still none comparable in importance to COHIBA. Unlike COHIBA, the Davidoff brand, manufactured in Cuba from the late 1960s to 1991, was the product of a relationship with a foreign company, which gave its name to the product.

27. When I first began work at Cubatabaco, I was assigned a mentor who was one of the most experienced workers in the Cuban tobacco industry to inform me of all aspects of the cigar industry, including the production processes and the differences between the various brands sold by Cubatabaco. In the 1980s, I also visited the tobacco farms where tobacco for COHIBA is grown where I spoke to the growers, and I also visited the factory that makes COHIBAs, the El Laguito, where I saw how COHIBA was manufactured. From these experiences and conversations with specialists, I have learned that COHIBA is produced from tobacco grown in a select number of the best farms (vegas) in the Vuelta Abajo tobacco growing region of Pinar del Rio and that are cultivated by the most experienced tobacco farmers in Cuba. Once harvested, the leaves selected for COHIBA are processed at special places designated only for COHIBA where the drying and fermenting take place. COHIBA is the only cigar that receives a third fermentation, other high quality cigars receiving only two. COHIBA cigars have always been produced from 100% Cuban tobacco.

28. In 1986, COHIBA was awarded the Gold Medal with Palms from Monde Selection, an international institute of quality selection located in Belgium, for being the best cigar product among those evaluated. In 1988, it again received the Gold Medal with Palms from Monde Selection.

29. When I first began working at Cubatabaco in 1984, the COHIBA cigar was already sold with a design dramatically different than all other designs that were used for the Cuban cigars. The COHIBA design used bold elements placing a stylized silhouette of an Indian head framed by a tobacco leaf superimposed on a black and white geometric grid and the name of the brand COHIBA was written in bold, block letters printed in black and white. The grid and use of bold, block letters was a radical departure from the design styles of brands previously sold in the Cuban cigar industry or to my knowledge elsewhere for cigars. The other Cuban brand designs were elaborate, pictorial and used old fashioned typeface. I identify PX 37 and 702 (P2342-43) as photographs of the COHIBA design being used in 1984. Numerous examples of traditional designs are found in the book *The Journey of the Cuban Cigar* by Antonio Nunez Jimenez, which is designated as PX 1223. The designs shown in this book, other than the COHIBA, are the types of designs used before 1959 and continued by Cubatabaco for the cigars it sold. I attach as Appendix F to my written testimony PX37 showing the COHIBA design and the relevant pages of PX1223 as providing representative examples of the other Cuban brand designs.

30. When I returned to work at Cubatabaco in 1988 after two years of study abroad, I observed that Cubatabaco had introduced a new design for the label of COHIBA. The new design retained the Indian head silhouette over the black and white grid background, with the distinctive bold block typeface. However, the tobacco leaf was removed and the design elements

were rearranged producing a more refined and elegant image, and the name COHIBA was printed in gold instead of black, capturing the luxuriousness of the product. This modified design was also used on cardboard five packs for the original three vitolas. There were also new designs used, on the cigar sleeve and band. The new designs can be seen in the advertisements, which ran in fall of 1987, collected in PX 1144.1 at P023753-76 and also shown in PX 703 at P16733-34.

31. In 1989, as part of the introduction of the new three vitolas--Robusto, Esplendidos and Exquisitos--Cohiba cigars of these new vitolas were sold in retail shops and at duty free stores exclusively in wooden boxes of 25 cigars. The cover of the wooden box was very simple, without adornments, except for the placement of the silhouetted Indian head profile and the word COHIBA in the distinctive bold block typeface in black on the lower right corner of the box (an unusual location, as most of the Cuban wooden boxes placed the name in the center of the box). The name of the vitola was written on the side of the box in a distinctive type face. A color label was affixed to the inside lid for Esplendidos and Exquisitos, and on the glassine paper covering of the Robustos cigars. Examples of the wooden box, label, and band in the market by 1989 are also found in PX 703 at (P16733-34), which I attach as Appendix G. Cohiba cigars have been sold with these designs continuously since that time, with the only change being the substitution in 1995 of "Habanos, S.A." for "Cubatabaco" and the elimination of Cubatabaco's leaf logo, and the addition of "Habana, Cuba" to the band.

32. I have examined several color and black and white photocopies produced in this case with B00 numbers. B0041-46 (PX762) are photocopies identical to the single cigar sleeve for Cohiba Panetelas cigars sold by Cubatabaco in the late 1980s and early 1990s, including throughout 1992. One Cohiba Panetela cigar would be placed in the sleeve, and five sleeves

would be placed inside the Cohiba Panetela five-pack. B0059-64 (PX764) are photocopies identical to the wooden Cohiba box that I described above, this one for Cohiba Esplendidos, sold by Cubatabaco in the late 1980s and early 1990s, including throughout 1992, except that there is no photocopy of the inside lid, where the color label that I described above would be placed. B0024 (first page of PX 767) is a black and white copy (with hand markings in red) identical to the label that would be affixed to the inside lid of the wooden box for Cohiba Esplendidos, sold by Cubatabaco in the late 1980s and early 1990s, including throughout 1992. B0032 (PX 769) is a photocopy identical to the thin cedar wood sheet placed over Robusto cigars sold by Cubatabaco in the late 1980s and early 1990s, including throughout 1992. B0033-0044 (PX766) are photocopies of a brochure produced by a tobacconist in Hong Kong, Cohiba Cigar Divan, in the Mandarin Hotel, who was authorized to sell Cubatabaco products. In my employment at Cubatabaco, I was familiar with this shop and I had seen this brochure in the early 1990s.

33. I have examined a wooden Cohiba Esplendidos cigar box, including items inside PX 927. This wooden box and label are of the type sold by Habanos, S.A., and are identical to the box sold by Cubatabaco prior to 1995, except for the substitution of Habanos, S.A. for Cubatabaco and the elimination of the leaf logo. Inside the wooden box are samples of the Cohiba Coronas Especiales five-pack and cigar sleeve sold by Habanos, S.A. and are identical to that previously sold by Cubatabaco, with the same differences as the wooden box.

34. The COHIBA design continues to be very distinctive in style from all other Cuban brands, even those that were created in the mid-1990s, which use traditional, elaborate typeface and the pictorial elements used in pre-revolution brands. None of the new brands incorporate bold, modern geometric elements similar to the COHIBA.

35. Export sales of COHIBA began in 1982 with the launch in Spain. I have examined PX 39, which is a print out from the data base of historic sales contained in the files of Habanos, S.A., and it shows that by 1987, exports of COHIBA in the international market had grown to approximately 871,075 and exports continued to grow steadily thereafter, with exceptions in 1988 and 1996. The temporary declines in 1988 and 1996 were due to a temporary sharp drop in the crop of high quality tobacco used for COHIBA. After this exports rose to 7,866,800 in 1999. Statistics from PX39 and PX 516 show the following exports of COHIBA:

1987	1988	1989	1990	1991	1992
850,150	668,755	930,610	1,402,440	1,488,425	1,616,894

1993	1994	1995	1996	1999
1,837,920	2,099,830	2,802,175	1,863,575	7,866,800

I attach as Appendix H a chart showing the progression of exports of COHIBA from 1987 to 1992. (The printout for the data for 1998 omitted some distributors and the printout from 1997 appears to be inconsistent with another report on sales and so I have not used the data from these years in my testimony.)

36. To my knowledge and as discussed in the deposition of Barbara Leyva, records of sales in the Cuban market were not kept systematically in the data base prior to 1995 and only a small percentage of sales in the Cuban market are reflected in its statistics of exports found in PX 39 for the years prior to 1995. In making the calculations of exports, presented in the preceding paragraph of this testimony, I have deducted sales in the Cuban market from the totals found in PX 39 and PX 516. PX 39 shows that in 1995 and 1996 sales in the Cuban market were 245,025 and 165,425 respectively. Statistics from PX 516 show domestic sales in 1999 of 921,250.

37. Prior to 1989 two factors limited the quantities of Cohiba available for export: the level of production of high quality tobacco required for COHIBA and the production capacity of the El Laguito factory where Cohiba had been made. In 1989, the production of COHIBA increased when the new vitolas were introduced into the market. Two of these vitolas – robusto and esplendido -- were manufactured at another factory by expert rollers who were experienced in making these formats. In addition, the amount of available high quality tobacco had increased as the result of policies instituted in prior years, including the creation of reserves of tobacco that were utilized for COHIBA. By 1992, when the Siglo line was launched, production capacity for COHIBA increased again by utilizing for the new Siglo blend high quality tobacco grown on vegas previously used for production of tobacco for Davidoff and also by manufacturing some of these vitolas at other factories where expert rollers had experience in making these formats. Additional investments in the 1990s for the production of high quality tobacco substantially increased the amount of COHIBAs available for export after 1996.

38. PX 39 shows that sales in western European markets from 1987 through 1992 doubled. COHIBA exports to western European markets for these years are:

1987: 558,830

1988: 523,480

1989: 794,030

1990: 1,144,160

1991: 1,158,025

1992: 1,040,615

39. Markets for COHIBA also continued to expand after the June 1982 launch in Spain. By the time I started working at Cubatabaco in 1984, COHIBA was already being

exported to Belgium, Andorra and the Middle East. I recall from my work in the purchasing department of Cubatabaco that sometime between 1984 and 1986 COHIBA was being exported as well to Switzerland and the United Kingdom. Plaintiff's Exhibit 39 shows that by 1987, the COHIBA was being sold in more than 22 countries. In Europe in 1987 it was being sold in Andorra, Belgium, Canary Islands, France, Gibraltar, Holland, Italy, Luxembourg, Spain, Switzerland and the United Kingdom. By 1987, it was also being sold in Japan, Canada and Mexico as well as countries in the Middle East, Africa and Latin America.

40. At the 1990 distributors' meeting described previously, Cubatabaco confirmed to its distributors that COHIBA was to be sold in the most exclusive tobacco shops, as shown by PX 1143. From my contacts with both distributors and retailers of COHIBA, I know that prior to November 1992 COHIBA was available in the most prestigious and well-known tobacco shops. For example, in London COHIBA was sold principally in exclusive tobacco shops such as Harrods, Alfred Dunhill, J.J. Fox, Robert Lewis, Davidoff of London and Sauters. In Switzerland, COHIBA was sold mainly at exclusive stores such as Gerard's in the Noga Hilton and at the Davidoff store in Geneva, and at Samuel Menzi in Zurich. In France COHIBA was mainly sold at exclusive shops such as La Civette and Georges V. In Cancun, COHIBA was only sold at the Casa del Habano. When I visited Amsterdam in 1989, COHIBA was only being sold at Hajenius, the most important tobacconist in the city.

41. Since at least 1988, Cubatabaco, in conjunction with its distributors, has invited the managers and sales personnel from many of the elite stores to visit Cuba as part of our promotional strategy for Cuban cigars, particularly COHIBA. They have been taken to the Vuelta Abajo tobacco region and to the Laguito factory.

42. From my work in the purchasing department as well as in the marketing department, I am able to identify which of the distributors sold to duty free markets exclusively and which sold to both the duty free and domestic markets. I am therefore able to determine from examining PX 39 that by 1987, COHIBA was being sold in the duty free market in the following countries: Belgium, France, Switzerland, Italy, Spain, Mexico, Canada, the Middle East, Belgium and Japan. Duty free sales began in the United Kingdom by 1991 and possibly earlier.

43. When I worked in the purchasing department in 1984-1986, I learned that Cubatabaco could not meet the demand for COHIBA. At that time, I saw that my co-workers, whose responsibility it was to purchase COHIBA cigars from the El Laguito factory for export, could not satisfy orders and experienced long delays in filling orders. This was also true of some other brands, but a particularly acute and constant problem with COHIBA. There were only 10 people working in the purchasing department at that time and we all worked in the same room together. After I returned to the Marketing Department in 1988, in contacts I had with retailers who visited Cuba, they expressed their desire to buy more COHIBA cigars than Cubatabaco could supply. Similarly, after 1990, from my participation in events with distributors and later because of my contacts with distributors as director of the Marketing Department, I have known that Cubatabaco has not been able to meet the demand for COHIBA. Other brands had this problem as well at times, but it was more acute and constant with COHIBA. The great demand for COHIBA is also shown by the way exports increased dramatically as soon as it was possible to overcome limitations in the volume of production.

44. On April 23, 2003, I reviewed the web site of the General Cigar Company at www.cigarworld.com and noted that General Cigar listed seven brands of cigars that had been

produced and exported from Cuba prior to 1960, and which are still used for Cuban cigars: Bolivar, Hoyo de Monterey, La Gloria Cubana, Partagas, Punch, Ramon Allones and Sancho Panza. Together with COHIBA, these brands represent eight of the thirteen brands listed on General Cigar's web site. I know these brands were produced prior to the revolution from a research project at Cubatabaco in which I participated in 1990-1991, in which I examined archival and other materials. Cigars have been sold by Cubatabaco and Habanos, S.A. under each of these brand names since at least 1984, when I began working for Cubatabaco, and it is my understanding from the research in the mentioned project that they were sold by Cubatabaco before 1984. I also know that La Flor de Cano and Rafael Gonzalez, registered to General Cigar in the United States, are also pre-revolution Cuban brands and continue to be Cuban brands.

45. The 23 primary brands sold by Cubatabaco in 1990 are shown in the pyramid of brands attached as Appendix B (PX 1143), about which I have already testified. I know from examining *Cigar Aficionado*, cigar books and web sites in the United States that, in addition to COHIBA, 18 of these are also sold in the United States. I know from my research into the history of Cuban cigars that 17 of these brands were produced and exported from Cuba prior to 1960. The 18th brand, Davidoff, was manufactured and exported from Cuba from the 1960s until the early 1990s when the Davidoff company began production in the Dominican Republic of cigars it sells under the Davidoff name in the United States and elsewhere.

46. The second, third and fourth tiers of the 1990 pyramid consist exclusively of cigars that are sold in the United States under those brand names by non-Cuban companies and the fifth tier consists of five brands sold in the United States and only one that is not, to my knowledge. I attach as Appendix I a copy of the 1990 pyramid marked to illustrate this.

47. Cuban cigars continue to be sold internationally under the brand names shown on the pyramid, with the exception of the brands Caney and Davidoff.

48. In 1995, the top ten selling brands sold by Cubatabaco by volume were Montecristo, Partagas, Romeo y Julieta, Quintero, Fonseca, Rafael Gonzalez, Cohiba, Flor de Cano, Hoyo de Monterrey and Punch. COHIBA was the seventh by volume. In 1990, Cubatabaco sold the brand Cifuentes in very small quantities and discontinued selling this brand after that. The brand Cifuentes was not sold at all in 1995. The brands Bolivar and Ramon Allones were fifteenth and twentieth in volume of sales, respectively.

49. Soon after my joining the Marketing Department at the end of 1988, the Director of the Marketing Department at Cubatabaco assigned me to look for and assemble information on the United States cigar market that might be helpful to Cubatabaco's consideration of how best to sell cigars in the United States when the embargo ended. I looked for information on the principal cigar companies, the levels of cigar sales and the volume of cigar imports at that time. In addition, I looked for information on sales to the United States from Cuba from before 1959. I collected information from issues of US and foreign trade magazines that we had in the Marketing Department, including *Tobacco Reporter*, *Tobacco International* and *World Tobacco*. I also looked at reports on the tobacco industry from the United States Department of Agriculture as well as studies done in Cuba in the 1970s of the tobacco market that included a chapter on the United States. I gave the information I collected to my superior.

50. Cubatabaco intended to sell COHIBA in United States market as soon as it was legally possible, and the Marketing Department, in furtherance of this intention, engaged in activities aimed at building and maintaining the reputation of COHIBA in the United States, including without interruption during the period 1992-1997. In keeping with this intention, I, as

Director of Marketing from 1993 to the present, have consistently endeavored to build and maintain the awareness and reputation of COHIBA in the United States during this period. Prior to becoming Director, I participated in activities that had the same objective in furtherance of the instructions I received to promote and maintain consumer awareness of COHIBA, as well as other Cuban cigars, in the United States.

51. Since I have been a member of the Marketing Department, it has been the policy and practice of the Marketing Department to assist all US journalists and as director I have continued this policy and practice. When a US journalist requested information about Cuban cigars, the tobacco farms, processing facilities or factories, the request came to the Marketing Department which assigned a specialist to provide assistance. During the period 1993–1997, as well as thereafter, I have instructed specialists in my department to facilitate visits by US journalists from a variety of print and electronic media. I have made sure that personnel in my department give preference to requests of US journalists for information and interviews about COHIBA and I have instructed specialists in my department to facilitate their visits to the El Laguito factory and other factories where COHIBA cigars are manufactured and to tour the vegas in Vuelta Abajo where the special tobacco for COHIBA is grown.

52. During the period 1992-1997, as well as before and after, the Marketing Department developed close working relations with journalists from US magazines that specialize in tobacco and cigar reporting, such as *Cigar Aficionado*, *Smoke*, *Tobacco Reporter* and *Tobacco International*.

53. In 1992, I participated in a meeting in Havana with Marvin Shanken in which Mr. Shanken sought the support and collaboration of Cubatabaco for his publication of *Cigar Aficionado*, which he intended to launch later in 1992. I identify PX1189 as the materials

brought by Mr. Shanken and distributed to Cubatabaco at this meeting. In both the materials and in his presentation, the projected publication was described as an elite magazine directed to cigar consumers that would be distributed primarily in the United States.

54. The material included a partial prototype of the planned magazine, which is included in PX 1189. These materials manifested to us the magazine's intention to place substantial emphasis on Cuban cigars.

55. At this meeting, Shanken asked and Cubatabaco agreed to collaborate with his project by providing information to journalists from *Cigar Aficionado* and assisting them on their visits to Cuba to report on Cuban cigars, including by arranging visits and accompanying them to the tobacco farms and factories connected with the cigar industry, and by arranging interviews. In addition, at this meeting Cubatabaco agreed to take out advertisements in *Cigar Aficionado* for its products. The staff of Cubatabaco that would be involved in the implementation of this decision, including the Marketing Department, was informed of the decision that Cubatabaco would support *Cigar Aficionado* and was instructed to collaborate with *Cigar Aficionado* in order to promote Cuban cigars, including COHIBA, directly to cigar smokers in the United States as well as to other English speaking consumers.

56. In the 1992 meeting between Cubatabaco and Mr. Shanken that I attended, both Shanken and the Cubatabaco representatives expressed the view that the premier issue of *Cigar Aficionado* should contain a major article on COHIBA. Cubatabaco did not suggest that an article be written about any other brand.

57. To facilitate in depth reporting on COHIBA for the premier issue, the Marketing Department provided Mr. Suckling and other writers and photographers from *Cigar Aficionado* with information about COHIBA and made arrangements for and accompanied them on visits to

the Laguito factory to see the production process and scheduled an interview with its manager, Avelino Lara. The Marketing Department also arranged for these journalists to visit the vegas where the tobacco for COHIBA is grown.

58. Likewise, Cubatabaco decided that the advertisement it would place in *Cigar Aficionado* would be for COHIBA and not any other brand. The Marketing Department arranged through Hunters & Frankau, Cubatabaco's distributor in the United Kingdom, to take out an advertisement in the premier and second issues of *Cigar Aficionado* for COHIBA. The advertisement was a full page, color advertisement that bore the legend: "COHIBA the first name in cigars." I identify Plaintiff's Exhibits 1135(1) (P020254) and PX 1135(2) (P020167) as the advertisements for COHIBA that ran in these two issues and I attach them as Appendix J to my written testimony. Cubatabaco either paid the entire cost or shared the cost with Hunters & Frankau. I identify PX 67 as a pay order and invoice for the advertisements.

59. During the visit to Cuba by Mr. Shanken when he sought support for *Cigar Aficionado*, I also attended a meeting of the Exclusive Distributors of Cubatabaco at which Mr. Shanken was given the opportunity to present his proposal for the magazine *Cigar Aficionado* to the exclusive distributors. I do not now recall if this meeting took place before the meeting between Mr. Shanken and Cubatabaco or afterwards.

60. From then on, the Marketing Department provided ongoing assistance to the writers for *Cigar Aficionado*, who visited Cuba between 2-3 times a year between 1992 and 1997 and beyond. Their reporting on Cuban cigars was based in part on their visits to Cuba and they reported much more on COHIBA than any other brand. The articles referencing Cohiba in issues of *Cigar Aficionado* throughout this period are reproduced as part of PX 1122. The following exhibits in PX 1122 contain articles based on reporting in Cuba: 1.1 (premiere issue August

1992: “The Legend of Cohiba: Cigar Lovers Everywhere Dream of Cuba’s Finest Cigar”); 2 (December 1992: The Treasure of the Vuelta Abajo; Cuba’s Prime Tobacco Region Still Produces Great Cigars,” “Star Cigars of Cuba: Cohiba Robusto,” “Star Cigars of Cuba: Cohiba Esplendido”); 3 (March 1993: “Cohiba’s New Sizes”); 4 (June 1993: “The Battle for Montecristo”); 5 (September 1993: “In Search of Davidoffs”); 8 (June 1994: “A Late Night with Fidel,” “Not the Real Thing: Counterfeits of the top Cuban Cigar Brands are Flooding the World Market”); 9 (September 1994: “The Rolling Rooms”); 10 (December 1994: “The Band”); 12 (June 1995: “Melia Cohiba”); 13 (September 1995: “The Man who Created Cohiba,” “Forbidden Land”); 14 (December 1995: “Interview: Pedro Perez,” “The Partagas Family”); 15.1 (March 1996: “The Woman Behind COHIBA”); 17 (September 1996: “The magic of Jose Marti”); 20 (May-June 1997: “Moments to Remember: Celebrating Cohiba”); 21 (July/August 1997: “Happy Birthday, COHIBA”); 22 (Sept/October 1997: “Che’s Habanos”).

61. From my own meetings with Mr. Suckling and the instructions I gave my staff to provide him assistance, I know that Mr. Suckling, who focused particularly on COHIBA, came to Cuba at least once or twice a year during this period. Under my instructions the Marketing Department always gave highest priority attention to assist him in scheduling interviews and visits to factories and vegas, including to assist him in pursuing his interest in COHIBA. Correspondence between Mr. Suckling and Bernardo Gonzalez of the Marketing Department in December 1996 and January 1997 reflects his requests and the arrangements made by Bernardo Gonzalez to facilitate his research on COHIBA during his upcoming visit. That correspondence is found in PX 1178, PX1181, PX1184, PX1186 and PX1187.

62. In November 1992, a few months after the premier issue of *Cigar Aficionado* appeared, Cubatabaco launched the 1492 Siglo line of COHIBA at the 5th Centennial celebration

of the landing of Columbus in Cuba. Cubatabaco invited Mr. Shanken and Mr. Suckling, and both attended. As expected, the March 1993 issue of *Cigar Aficionado* contained a feature on the Siglo launch in Havana, including photographs of the launch. The article entitled “COHIBA’s New Sizes,” states that “All the Cohiba Siglos are outstanding smokes” and rates each cigar in the line separately with extremely high ratings from 90-96. A copy of these articles is found at PX 1122(3) (P020321-26). Planning for this launch began in early 1992. No other brand of cigars was featured at the celebration.

63. The Marketing Department invited Mr. Shanken and Mr. Suckling to the September 1994 dinner commemorating the 150th Anniversary of the H. Upmann brand and to the 1995 dinner commemorating the 150th anniversary of Partagas, and, in 1996, extended to them invitations to attend the 30th anniversary celebration of the COHIBA, which was postponed until February 1997, and to other events held after this. It was the practice of Cubatabaco and Habanos, S.A. to cover the costs of at least one or two journalists from the specialized cigar press for dinners and other activities for which a fee was charged to participants. Pursuant to this practice these costs for Mr. Suckling and Mr. Shanken to attend the public events listed above were paid for by Cubatabaco and Habanos, S.A. PX 1207 is a printout of the invitees to the tasting event at the COHIBA 30th Anniversary celebrations and indicates that these expenses were paid for journalists from *Cigar Aficionado* and other publications.

64. In 1993 or early 1994, I instructed Bernardo Gonzalez, a specialist in the Marketing Department, to draft a letter to Cuban authorities requesting that Mr. Shanken be granted an interview with President Castro to be published in *Cigar Aficionado*. I recall approving the draft, which described *Cigar Aficionado* as the most important specialized US magazine that had consistently given wide coverage of Cuban cigars, and sending it to the

Director's office. Mr. Shanken's interview was published in the June 1994 issue of *Cigar Aficionado*, which devoted 11 pages to his interview with Fidel Castro, including full page photographs, in which he talks about Cuban cigars and COHIBA in particular. The cover of this issue displayed a close-up portrait of Fidel Castro holding a COHIBA cigar. The cover and interview are found at PX 1122(8) (P020470-86). The cover and interview are attached as Appendix K to this testimony.

65. In 1994, Cubatabaco collaborated with *Cigar Aficionado* in the organization of the "Dinner of the Century," promoted by *Cigar Aficionado* as a lavish cigar dinner for elite personalities held at the Laurent Restaurant in Paris on October 22, 1994. I do not now recall if Mr. Shanken wrote in early 1994 to Cubatabaco requesting Cubatabaco's support and collaboration for this project or if he made the request at a meeting at which I was present, but I do recall that he made this request. I recall participating in a meeting of the Consejo de Direccion of Cubatabaco in which we decided that Cubatabaco would consent, provided that only Cuban cigars would be featured. I was aware at the time that a large number of US personalities would be invited. We understood that the event would be covered by *Cigar Aficionado*, and we hoped that it would generate other press coverage in the United States as well given the expected attendance of US celebrities.

66. Cubatabaco proposed that COHIBA be the cigar featured. Mr. Shanken requested that new vitolas of COHIBA cigars be produced especially for this dinner, vitolas that had never been available before. He also requested that a Trinidad cigar, a brand that had not yet been introduced on the market, be also supplied for the guests. Cubatabaco agreed to develop and supply the special COHIBA cigars as well as the Trinidad. The Marketing Department requested the El Laguito and Partagas factories to produce a new COHIBA cigar named Torpedo and

COHIBA A, vitolas never produced before under the brand COHIBA, for this dinner. The COHIBA and Trinidad cigars provided by Cubatabaco for this dinner were sent free of charge. In addition, the Marketing Department ordered the manufacture of special boxes of COHIBA and Trinidad cigars and it also ordered the design and printing of special certificates to be included in each box that stated that the cigars in them were especially manufactured for this dinner. Boxes of COHIBA and Trinidad cigars were signed by President Castro to be auctioned at the affair, the proceeds of which would go to support charities.

67. As expected, the association of the COHIBA cigar with this event provided publicity for COHIBA in the United States. The Autumn 1994 issue of *Cigar Aficionado* promoted the dinner in a two-page spread headed by a banner spread across both pages that read “Be a Part of History.” The promotion announced that two new COHIBA cigars, especially prepared for this occasion, would be served. The promotion also published the list of the members of the dinner committee, eight of which were very prominent US businessmen and celebrities. I identify PX 1220 as a copy of this promotion, which is attached to this testimony as Appendix L. The eight US personalities that formed part of the 22 member committee were R.W. Apple Jr., Washington Bureau Chief of the *The New York Times*; Ken Aretsky, Chairman of the 21 Club; Francis Ford Coppola, film director; Steven Florio, President of Conde Nast Publications; Paul Guarascio, Vice President of General Motors Corporation; Gregory Hines, film star; Jonathan Linen, Vice Chairman, American Express Company; and Gene Pressman, Co-Chairman of Barney’s.

68. The *Miami Herald* (October 21, 1994); the *Commercial Appeal* of Memphis (October 24, 1994) and the *New York Times* (March 19, 1995) all ran articles covering the event, which noted COHIBA. These articles are found in PX 1124(c)(2)(62, 67 and 93). The publicity

gained from this affair carried over to the Spring 1995 issue of *Cigar Aficionado* in a two page article entitled “Great Moments” describing the elegant black tie dinner in detail and reproducing photographs of some of the 160 guests reported to have attended. A copy of this article is found in PX 1122 (11.1) and PX 1219. The article mentions the two COHIBA cigars “made exclusively for the dinner by Cubatabaco” and also details the charity auction of numerous boxes of the Cuban COHIBA and Trinidad cigars, the price of some of which the reporter translated into \$700 a cigar.

69. In 1995, the Marketing Department prepared a summary of promotional activities undertaken in 1994 and presented that summary at the 1995 meeting of the exclusive distributors in Havana. It makes specific note of the “Dinner of the Century” in Paris as “an event that brought together important personalities of culture, business and the press” and which “promoted and established precedents of direct publicity that might connect with our target public and that lead to indirect publicity and favorable Public Relations for the Habano.” I identify PX 1197 as a copy of this summary.

70. In about summer 1995, the Consejo of Habanos, S.A. decided to name Marvin Shanken “Habanos Man of the Year for Communications” at the September 1995 dinner held in Havana to celebrate the 150th anniversary of the Partagas brand. I personally wrote the letter to Mr. Shanken informing him of the award, and I was present when Mr. Shanken accepted the award at this dinner.

71. Between 1992 and the end of 1996, as well as after that, I personally met with numerous journalists to provide them with information about Cuban cigars, including COHIBA. These journalists included Marvin Shanken, David Savona, James Suckling and George Brightman of *Cigar Aficionado*; Aaron Sigmond and Robert Kemp of *Smoke*; Robert Lockwood

of *Smoke and Tobacco International*; Lucia Newmann of CNN; and Gail DeGeorge of *Businessweek*. I do not now recall the year in which I met each of these journalists. I identify PX 1126 as containing copies of the business cards given to me by these journalists when I met with them in Cuba. In addition, I met with and granted interviews to reporters from the television networks CNN and CBS. I recall that among these journalists, James Suckling, Aaron Sigmond and Robert Lockwood, who wrote for the two most important consumer cigar magazines, *Cigar Aficionado* and *Smoke*, consistently expressed particular interest in COHIBA. Lucia Newman of CNN also expressed interest in reporting on COHIBA.

72. Throughout the 1990s, the Marketing Department worked with and provided assistance to many other United States writers and journalists. Almost all of the US journalists who came to Cuba to obtain information on Cuban cigars requested information about COHIBA. The Marketing Department provided this information and assistance in arranging visits for them to learn mainly about COHIBA. I instructed Bernardo Gonzalez, the market specialist who was primarily responsible for attending to the US press and visitors, to assist these journalists who came to Cuba to do articles on Cuban cigars.

73. The following broadcasts of reports including COHIBA were done from Cuba : May 31, 1995 (CNN Moneyline, John Mattingly) PX 1126(19); April 10, 1996 (CNN News) PX 1126(21); February 27, 1997 (CNN World Today) PX 1126(23); February 28, 1997 (NPR News) PX 1126(24); March 23, 1997 (CBS News) PX 1126(20.1); June 27, 1997 (CNN Early Prime) PX 1126(28).

74. In each of the years 1995, 1996 and 1997, Nathaniel Lande, author of the book *The Cigar Connoisseur*, came to Cuba to conduct research and to negotiate for the use of photographs and research materials owned by Habanos, S.A for use in this book. I instructed

Bernardo Gonzalez to provide him with assistance and to arrange visits to El Laguito and the Vuelta Abajo tobacco growing region. I took part in the meetings with Lande to negotiate the contract for the use of these photographs and materials in the book, which was eventually published in the United States in 1997. I identify PX 1199 as the contract entered into by Habanos, S.A. and Nathaniel Lande on May 16, 1996. The book devotes considerable attention to COHIBA and Lande includes the names of several persons from Habanos, S.A. in the acknowledgments at the beginning of the book, including Bernardo Gonzalez and myself. I identify PX 1222 as a copy of *The Cigar Connoisseur*, published in 1997, and PX 1198 (selected pages). I attach the cover and the pages on COHIBA as Appendix M to this testimony.

75. I was also involved in the dealings with TFH Publications, a United States publisher, interested in publishing and distributing books about Cuban cigars in the United States. Between 1994 and 1996 contracts were concluded for the book *The Journey of the Cuban Cigar* by Antonio Nuñez Jimenez, which contains materials on COHIBA. The first contract for the publication of this book was between TFH and Consulting Prime, S.L., acting on behalf of Cubatabaco on September 4, 1994. A second contract between Havana House, acting in behalf of Habanos, S.A. and TFH was signed on January 1, 1996. I identify PX 1200 and 1203 as copies of these contracts. I identify PX 1223 as a copy of the book *The Journey of the Cuban Cigar* by Antonio Nuñez Jimenez, published by TFH Publications in the United States.

76. Between 1992 and 1997, I met with numerous authors who came to Cuba to research books on cigars, including COHIBA. Among those that I recall meeting with are Nancy Stout, author of *The Story of the Havana Cigar* (New York 1997); J. J. Kaplan, collaborator of Richard B. Perelman, author of *Perelman's Pocket Cyclopedia of Havana Cigars* (Los Angeles, 1996); and Theo Rudman, author of *Rudman's Complete Guide to Cigars*

(Chicago, 1995). I identify PX 1224, 1225, 1226 and 1230 as copies of these books respectively. There were others, but I do not specifically recall their names. Each of the books mentioned contains substantial, laudatory sections on COHIBA.

77. Between 1992 and 1997 a number of United States filmmakers came to Cuba to make videos on Cuban cigars, including the COHIBA. I specifically recall that the Marketing Department provided assistance to Rick Dees who produced “Cigars! The New Rage” (1996). I identify PX 1233 and PX 1204 (copy of cover) as the video produced by Rick Dees in which there is footage filmed about Cuban cigars, with specific emphasis on COHIBA. This video includes an interview with Avelino Lara, director of the El Laguito factory where COHIBA is made. I also recall that filmmakers came to make a video “Rhythm & Smoke” and I instructed Bernardo Gonzalez, a specialist in the Marketing Department to assist them. I identify PX 1183 as a letter, dated February 11, 1997, from John Schindler of “Rhythm & Smoke” to Bernardo Gonzalez requesting assistance with additional filming.

78. During the period 1992 – 1997 (and thereafter), the Marketing Department subscribed to and received consumer and trade cigar magazines published in the United States. These magazines are: *Cigar Aficionado*, *Smoke*, *Tobacco Reporter* and *Tobacco International*.

79. In addition to receiving these US publications, the Marketing Department received articles from other publications that were sent to us and kept many of these articles, including articles about COHIBA. I identify PX 1218 as copies of articles mentioning COHIBA found in that file, and I identify PX1188 as a copy of the February 15, 1992 issue of *Wine Spectator* in the Marketing Department’s files.

80. The Marketing Department has continued to carry on activities I have described here to support *Cigar Aficionado*, *Smoke*, US journalists and authors to the present, including their reporting on COHIBA.

81. Between 1992 and 1997, Cubatabaco and Habanos, S.A. organized large cigar events in Cuba to which they invited numerous US persons to attend. The Marketing Department had primary responsibility for the planning and production of these events, including developing the invitation lists and extending the invitations.

82. I have already mentioned the first such event which was the presentation of the Siglo line at the 500th anniversary of the Spanish discovery of the Americas which took place in November 1992. This event was conceived as a very significant launch for this new line of COHIBA. The Marketing Department reached out to the US press to get coverage of the launch in the United States at the same time it was advertising COHIBA in *Cigar Aficionado*. In about September 1992, Cubatabaco sent invitations along with information about the new line to United States journalists, including journalists from *Cigar Aficionado*, *Tobacco Reporter* and *Tobacco International*. I recall that among the guests were representatives of *Cigar Aficionado* and *Tobacco Reporter*. The event was attended by approximately 200 cigar specialists, distributors, retailers, journalists and other personalities from all over the world, including from the United States. As mentioned earlier, *Cigar Aficionado* gave substantial coverage of the Siglo launch at this event and gave high ratings to the new Siglo line, describing each one in detail.

83. In September 1994, Cubatabaco held its first of a series of cigar dinners and tastings to which international guests, including persons from the US were invited. I sent invitations to *Tobacco International*, *Tobacco Reporter* and to *Cigar Aficionado*. I identify PX 1190 and 1191 as copies of the invitations I sent to *Tobacco International* and *Tobacco Reporter*,

respectively, and PX 1193 in which Mr. Matlock of *Tobacco Reporter* expresses his regrets at not being able to attend. This dinner marked the 150th anniversary of the H. Upmann brand.

84. A year later, in 1995, Habanos, S.A. organized the 150th anniversary of the Partagas brand, to which US personalities and press were invited. I identify PX 1174, 1175 and 1176 as the lists of persons invited to this event, including more than 30 persons from the United States. Among the US persons who attended this event were Marvin Shanken, George Brightman and James Suckling of *Cigar Aficionado*, four writers from Lockwood Publications, publishers of *Smoke* and *Tobacco International*, five representatives of TFH Publications, John S. Kavulich of the US/Cuba Trade Council, actors Matt Dillon, Seymore Cassel and Joey Pantoliano, film producer James Orr, Lawrence Crowe of *The Robb Report* and writer Mark Morman. An article on this event by Mark Morman was published in the June 1996 issue of the US publication *The Robb Report*. I identify PX 1155 (P023722-25) as a copy of that article. I identify PX 1192 as a copy of a letter from John S. Kavulich to Adriano Martinez of Habanos, S.A., requesting assistance for the visa for Mr. Crowe of the *The Robb Report* to attend this event.

85. I participated in the planning discussions at Habanos, S.A. in late 1995 when we decided to organize a gala celebration to mark the 30th Anniversary of COHIBA to take place in 1996. In early 1996, we decided to postpone the event until 1997 to allow sufficient time for the extensive preparation and implementation necessary for such a large event and also so that participants could visit the vegas to see the COHIBA tobacco crop. The Marketing Department actively carried out planning for this event from early 1996 and invitation lists were drawn up in 1996. The 30th anniversary events took place in Havana during the last week of February 1997.

86. From the beginning, the Marketing Department conceived of this celebration as an elaborate international gala that would attract important personalities and a great deal of excitement in the international press. The event was planned to be the largest cigar celebration to have taken place in Cuba or elsewhere. In drawing up the invitation list, we deliberately included a wide range of US press, both the popular and trade press, celebrities and business persons. More than 800 persons attended, including almost 100 persons from the US. I identify PX 1177, 1173 and 1209 as lists of the guests invited to attend this celebration. Among the US persons invited were: six journalists from *Cigar Aficionado*; five journalists from the Lockwood Publications *Smoke* and *Tobacco International*; Chris Glass, journalist from *Tobacco Reporter*, representatives of TFH Publishing; John Kavulich of the US/Cuba Trade Council; representatives of the National Tobacco Company; and US actors Matt Dillon and Peter Weller. I identify PX 1179 as a letter from John S. Kavulich of the US/Cuba Trade Council to me requesting seating arrangements for 12 persons at this event. I identify PX 1213 as a copy of the schedule of events for the dinner, which the Marketing Department developed for use by the master of ceremonies. Reporters from *Tobacco International* and *Smoke* corresponded on numerous occasions relating to their interest in attending the 30th anniversary. That correspondence is found in PX 1214, PX 1182 and PX 1210.

87. Work on the 30th anniversary event began in detail in mid- 1996. In early July, meetings were held with the managers of the Tropicana Nightclub, a large, outdoor restaurant cabaret, where the event would be held, and work continued throughout the balance of 1996 and early 1997. A special menu suitable for the occasion was elaborated under the direction of one of Cuba's most prestigious chefs. I identify documents in PX 1234 as the earliest dated documents

we found in our files related to the planning meetings held with Tropicana. They are dated June 25, 1996, July 1, 1996, July 3, 1996 and July 8, 1996.

88. During the initial planning stages, the Marketing Department suggested to the President of Habanos, S.A. that it would be spectacular to have President Fidel Castro present at the dinner, because of his personal connection to the creation of the COHIBA cigar, the recognition of its prestige his presence would confer, and because of the enormous impact on the press that would be created by his appearance. I participated in a press conference held in January 1997 announcing the event in which various reporters asked if President Castro would attend. At this time I did not know whether President Castro would attend or not, so the press was told it was a possibility. As I anticipated, the mere hint that he would be in attendance set off a flurry of international press attention that resulted in more than 35 stories in the US press preceding the event, mentioning Fidel Castro, and speculating on who was invited and who would attend. These articles are found in PX 1124(C) (2)(271-287, 290-298, 300-306, 10, 311-13, 315). I attended the dinner. The appearance of Fidel Castro at the dinner created an outburst of excitement among the attendees and the press. An additional 30 articles reporting on the event in the US press are found in PX 1124(C)(2)(314, 316, 318, 319-21, 323-26, 328-33, 335, 337-46, 349, 351, 352-55 and 359).

89. In 1996, the Marketing Department ordered special COHIBA cigar bands to be designed and printed for the occasion as well as luxury mementos featuring the 30th anniversary COHIBA design such as humidors and ash trays. As planned in 1996, attendees were invited to tour the El Laguito factory, especially renovated for the occasion that year, and were taken on tours to the Vuelta Abajo tobacco growing region of Pinar del Rio where tobacco for COHIBA is grown.

90. As planned, a large number of U.S. journalists, more than 30, participated in or were accredited to cover the event, and all were given access to the El Laguito, the Vuelta Abajo region and interviews with personnel of Habanos, S.A. NBC and CNN covered the event as did the journalists from the specialized cigar magazines. The US journalists accredited to cover this event by the International Press Center in Havana were from *The Philadelphia Inquirer*, CBS News, Associated Press, *Newsweek*, *Spin Magazine*, *Time*, *Caribbean Travel News*, *Smoke Video*, *Los Angeles Times*, and *People Magazine*. The press were attended to by specialists from the Marketing Department. I identify PX 1173(P 024496) as a copy of a list of journalists accredited at the International Press Center in Cuba to cover the event.

91. The major consumer cigar magazines *Cigar Aficionado* and *Smoke*, numerous writers of both of which were invited, reported extensively on the 30th anniversary of Cohiba. *Cigar Aficionado* carried articles in both its May/June and July/August 1997 issues. These articles are found in PX 1122 (20, 21) "Moments to Remember" and "Happy Birthday, Cohiba." The Summer 1997 issue of *Smoke* magazine published a 6 page spread entitled "Cuba's Pride, The Legendary Cohiba celebrates thirty years of prosperity as the reigning king of Cuban cigars." This article is found at PX 1130 (5).

92. In early 1996, the US television network CNN requested permission to begin coverage of the anniversary celebration. With Habanos, S.A.'s assistance, CNN began filming in spring 1996 with coverage of cigar rolling and manufacturing which aired on April 10, 1996. A copy of the footage that aired on CNN on April 10, 1996, with a transcript, is found in PX 1126(21). I recall that CNN camera crew and journalists also returned in late 1996 to film at the El Laguito and to conduct numerous interviews with Cubans connected with the production and sale of COHIBA cigars. CNN also filmed the event itself. I have reviewed the CNN report of

the event found at PX 1126(23) and it is an accurate depiction of the celebration dinner and peripheral activities. In addition to the CNN reports, CBS broadcast a special report by Jane Robelot on COHIBA on its "Sunday Morning" show that included footage of the 30th anniversary celebration and of the El Laguito factory. A copy of the CBS report, with a transcript, is found at PX 1126(20.1). National Public Radio introduced its live broadcast from Havana on February 28, 1997 on Cuba's tobacco industry with an introduction about the 30th anniversary of the Cohiba. A copy of the transcript of this report is found in PX1126(24).

93. As part of the 30th anniversary event, a more exclusive cigar tasting event took place at the El Laguito factory on February 28, 1997 to which 130 persons were invited. Fourteen US personalities and journalists were invited to attend, including a group of nine writers from *Cigar Aficionado*, *Smoke* and *Tobacco International*. Habanos, S.A. invited well known US movie star, Matt Dillon, to be one of the five panelists to taste COHIBA cigars at this event. I identify PX 1212 as the script for the master of ceremonies at this event which lists Matt Dillon as one of five panelists from different countries. I identify PX 1206 and 1207 as lists of those invited to the tasting event.

94. In addition, the Marketing Department ordered special boxes of COHIBA cigars to be prepared for auction at this event, the proceeds from which went to support health services in Cuba. The boxes that were auctioned were signed by Fidel Castro.

95. In February 1994, the director of Cubatabaco gave me a box of cigars which had the name COHIBA on the top. The bottom of the box had the words made in Dominican Republic and distributed by Alfred Dunhill. The cigars inside did not have bands, and there was no other identification of the product other than the name printed on the top. Inside the box was a handwritten note from Tom Hinds, a distributor for Cubatabaco in Canada, that said "This box

of Cohiba is produced by General Cigar for trademark registration in the U.S.A. only. This is not to be sold as a regular item. That is why you only see the name Cohiba. The cigar is??? Tom” (underline in original). I identify PX 995 as photocopies of this box and note, and PX 953 as the original. I understood this note to mean that these cigars were not intended for commercial use, but only for purposes of trademark registration. It was normal for the Marketing Department to keep samples of the competition and the products that are made internationally. I kept the box in a humidor.

96. I recall and believe that Tom Hinds came to Cuba in late January 1994 and delivered the box to Cubatabaco’s director then. Tom Hinds had sent a telex to Cubatabaco advising that he would be arriving in Havana on January 30, 1994.

97. I summarize some elements of the injury that Cubatabaco has suffered, and will continue to suffer, from General Cigar’s registration and use of the Cohiba trademark in the United States. I do not attempt to discuss what I understand to be legal matters.

98. Cubatabaco wishes and intends to sell Cohiba cigars under the Cohiba name in the United States once the embargo ends. As I understand it, General Cigar’s registration and use of the Cohiba mark will prevent Cubatabaco from doing this.

99. The Cuban Cohiba’s goodwill (its renown and reputation) in the United States is substantial. I do not believe it would be possible to develop comparable goodwill within the United States for any other Cuban cigar. Even if possible, it would take many years, and the expenditure of enormous sums and effort to do so.

100. The Cuban Cohiba is unique because of its perceived association with President Fidel Castro. This is of great commercial value in generating sales in the United States after the embargo, and cannot be replicated.

101. The Cuban Cohiba has been positioned and promoted for over two decades as the best of all Cuban cigars; it has achieved unique status among Cuban cigars; and it is generally considered the best Cuban cigar. This is of great commercial value in generating post-embargo sales in the United States.

102. For these reasons, if Cubatabaco cannot sell the Cuban Cohiba under the Cohiba name in the United States after the end of the embargo, it will lose an asset of great and irreplaceable commercial value, and Cubatabaco's ability to sell its product in the United States after the embargo will be substantially impaired.

103. The Cuban Cohiba has always been promoted and marketed on the basis of its Cuban origin, and its being made entirely of Cuban tobacco. Its identity as a Cuban cigar, made entirely of Cuban tobacco, is essential to its success in the United States and internationally. By making a cigar under the "Cohiba" name that is not a Cuban cigar, and not made with any Cuban tobacco, General Cigar diminishes the capacity of the "Cohiba" name to identify a Cuban cigar, made entirely of Cuban tobacco, to United States consumers. This diminishes the ability of Cubatabaco to sell Cohiba cigars in the United States after the embargo, and injures the present international image and reputation of the Cuban Cohiba.

104. Cubatabaco has made considerable expenditures of time, effort and money in building and maintaining the goodwill of the Cuban Cohiba in the United States. It has also made considerable expenditures of time, effort and money in building and maintaining the goodwill of the Cuban Cohiba internationally, which has enhanced the Cuban Cohiba's goodwill in the United States. Additionally, it has built goodwill for the Cuban Cohiba in the United States and internationally by selecting the very best Cuban tobacco for Cohiba cigars. Cubatabaco will

substantially lose the value of these investments if it is not able to sell Cohiba cigars under the Cohiba name in the United States after the embargo.

105. Cubatabaco wishes to advertise its Cohiba cigars in the United States. I understand that is not able to do so because of General Cigar's registration and use of the Cohiba mark.

106. Cubatabaco's inability to advertise its Cohiba in the United States impairs its ability to expand through advertising the opportunities for post-embargo sales of Cuban Cohiba cigars in the United States, and for post-embargo sales to United States persons visiting Cuba or traveling elsewhere. It also impairs its present ability to sell Cohiba cigars to United States persons visiting Cuba.

107. It has always been of the utmost importance to Cubatabaco to be able to control the identity and reputation of the Cuban Cohiba. General Cigar's use of the Cohiba name diminishes its ability to do so among United States consumers.

108. Cubatabaco has sought to distinguish the Cuban Cohiba from all other cigars, and to position it as a unique and exclusive product apart from all other cigars. Confusion among United States consumers between the Cuban Cohiba and General Cigar's Cohiba tends to defeat these efforts, and injures the identity and reputation established for the Cuban Cohiba as a distinctive and unique, one of a kind, product emanating from a single source. This diminishes Cubatabaco's ability to sell Cohiba cigars in the United States after the embargo, and injures the brand's present international reputation.

109. This injury would be caused if there are the following forms of consumer confusion:

(a) United States consumers believing the General Cigar Cohiba and the Cuban Cohiba are the same cigar;

(b) United States consumers believing the General Cigar Cohiba is manufactured, or exported to the United States, by the same company that manufactures or sells the Cuban Cohiba;

(c) United States consumers believing that there is an association or affiliation between the manufacturer or exporter to the United States of the General Cigar Cohiba and the manufacturer or seller of the Cuban Cohiba; or that one has licensed, authorized or approved the other's use of the Cohiba name; or

(d) United States consumers believing that the people who make the General Cigar Cohiba (or their successors) once made the Cuban Cohiba in Cuba.

110. Confusion among United States consumers caused by General Cigar's use of the Cohiba mark injures the reputation and perceptions of the Cuban Cohiba in that it leads consumers to have a mistaken perception of the nature and quality of the Cuban Cohiba, which are different than that of the General Cigar Cohiba.

111. The Cuban Cohiba has consistently received much better ratings from *Cigar Aficionado* (and other publications) than General Cigar's COHIBA. I attach as Appendix N to my written testimony a graph illustrating this, which is based on the *Cigar Aficionado* ratings that are found in PX 1122, 1123, and 1140. Any confusion by United States consumers between the Cuban Cohiba and the General Cigar Cohiba injures the Cuban Cohiba by reason of persons attributing the superior ratings it has earned to General Cigar's Cohiba, and by persons attributing the inferior ratings General Cigar has earned to the Cuban Cohiba.

112. Confusion between the General Cigar and the Cuban Cohiba will diminish future sales of the Cuban Cohiba in the United States after the embargo, and future sales to United States persons as they travel abroad. It will diminish current sales to United States visitors to Cuba, who will believe that they can purchase the same or a related Cohiba cigar in the United States, or who will have formed a negative opinion of Cohiba cigars based on the reputation of General Cigar's Cohiba or their experience with that brand.

113. The Cuban Cohiba has been promoted as unique and one of a kind, and its value and appeal rests to a substantial extent on its being perceived as such. General Cigar's use of the Cohiba name for its cigars diminishes the present and future power and strength of the Cohiba trademark in the United States to attract attention to the Cuban Cohiba and to identify the Cuban COHIBA as a unique, one of a kind product. This impairs the ability to sell the Cuban Cohiba in the United States after the embargo.

114. Information about cigars, and their reputation, within the United States spreads abroad through United States publications and travel. By using the Cohiba name within the United States, General Cigar also injures the identity, renown and reputation of the Cuban Cohiba outside of the United States.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION, and GENERAL
CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

**APPENDICES TO THE WRITTEN DIRECT EXAMINATION TESTIMONY OF
ANA LOPEZ GARCIA**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

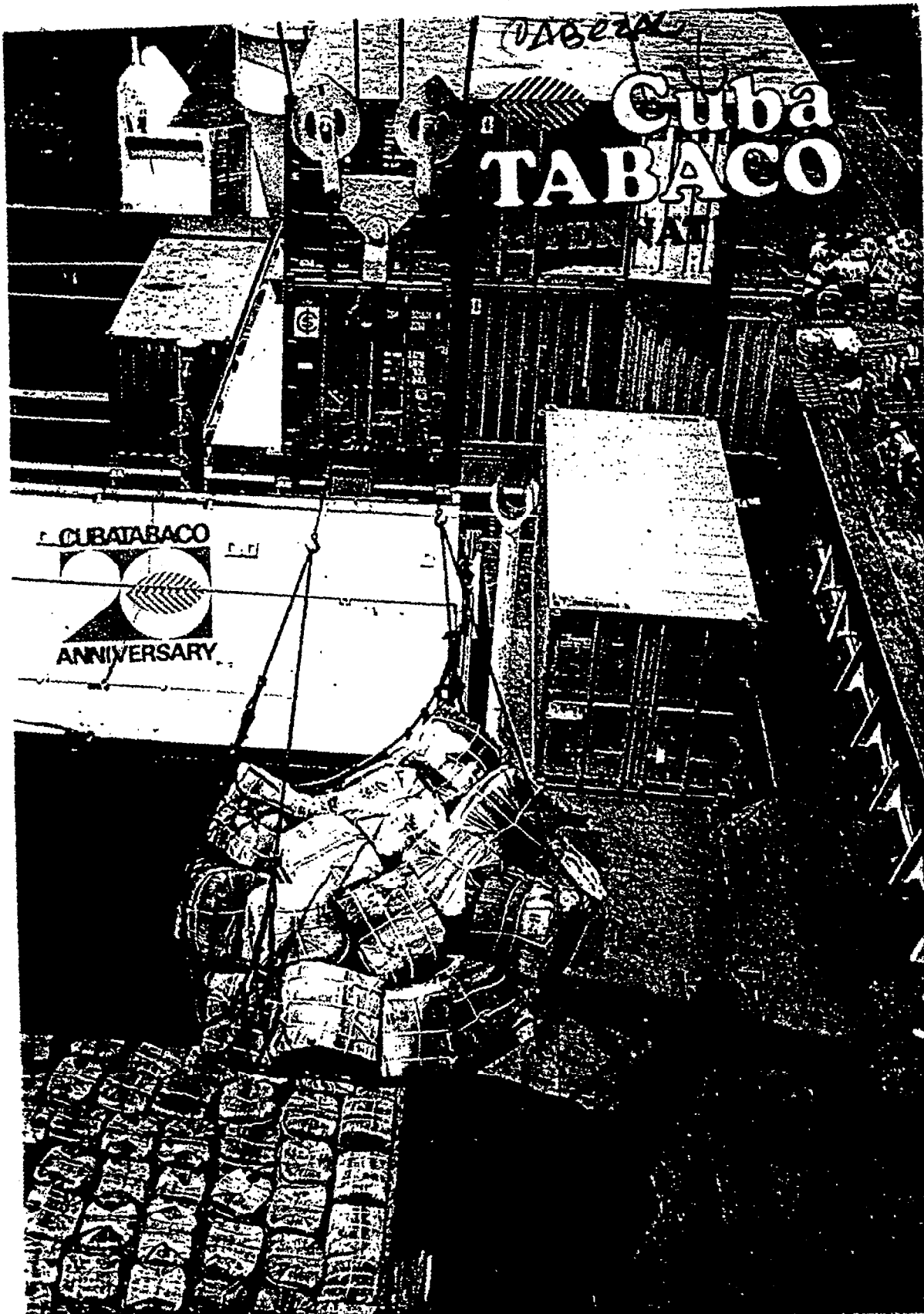
In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix A to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



P18198



Photos: Pedro Perdomo



Cuba TABACO INTERNATIONAL

No. 7, 1982

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a CDED-MINAL publication

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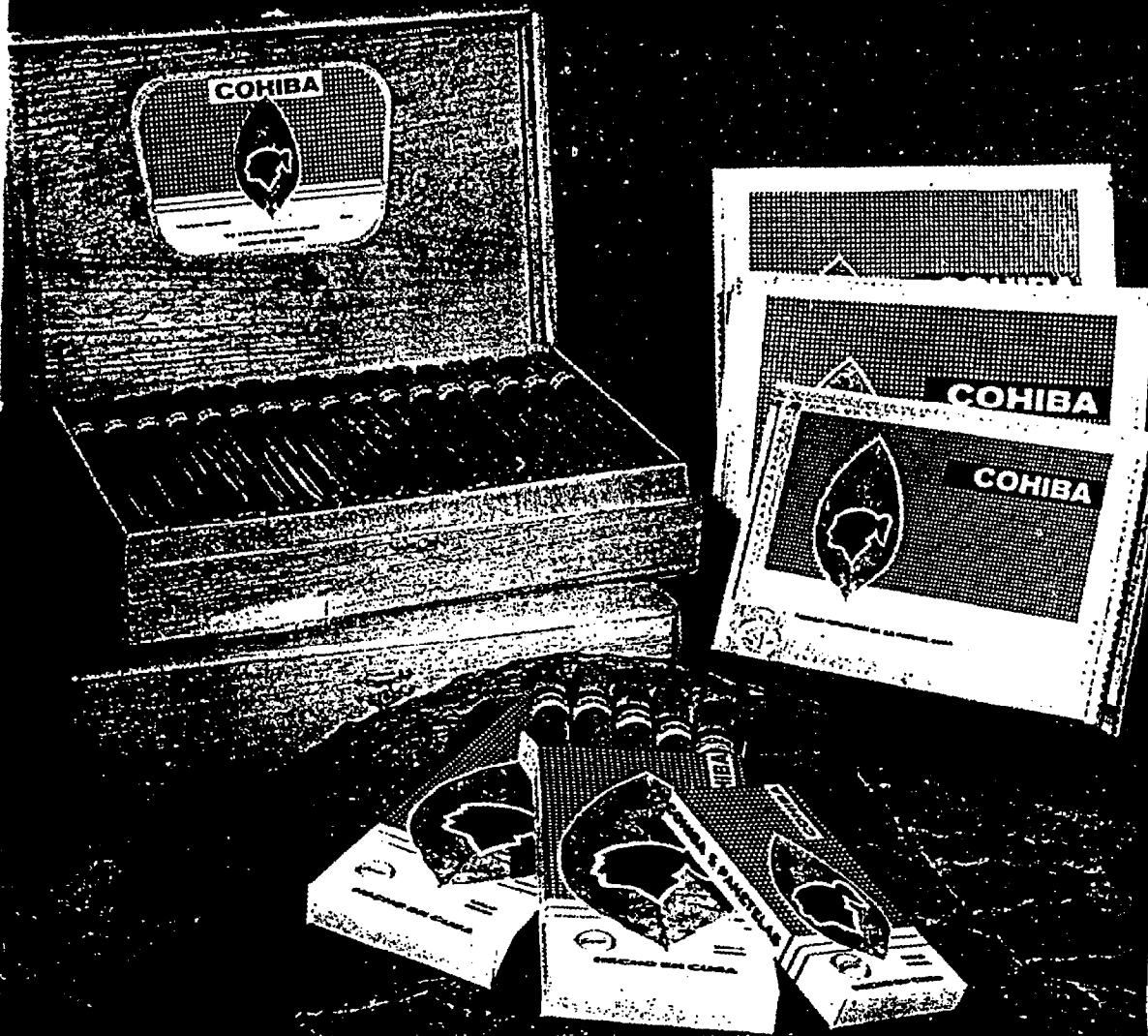
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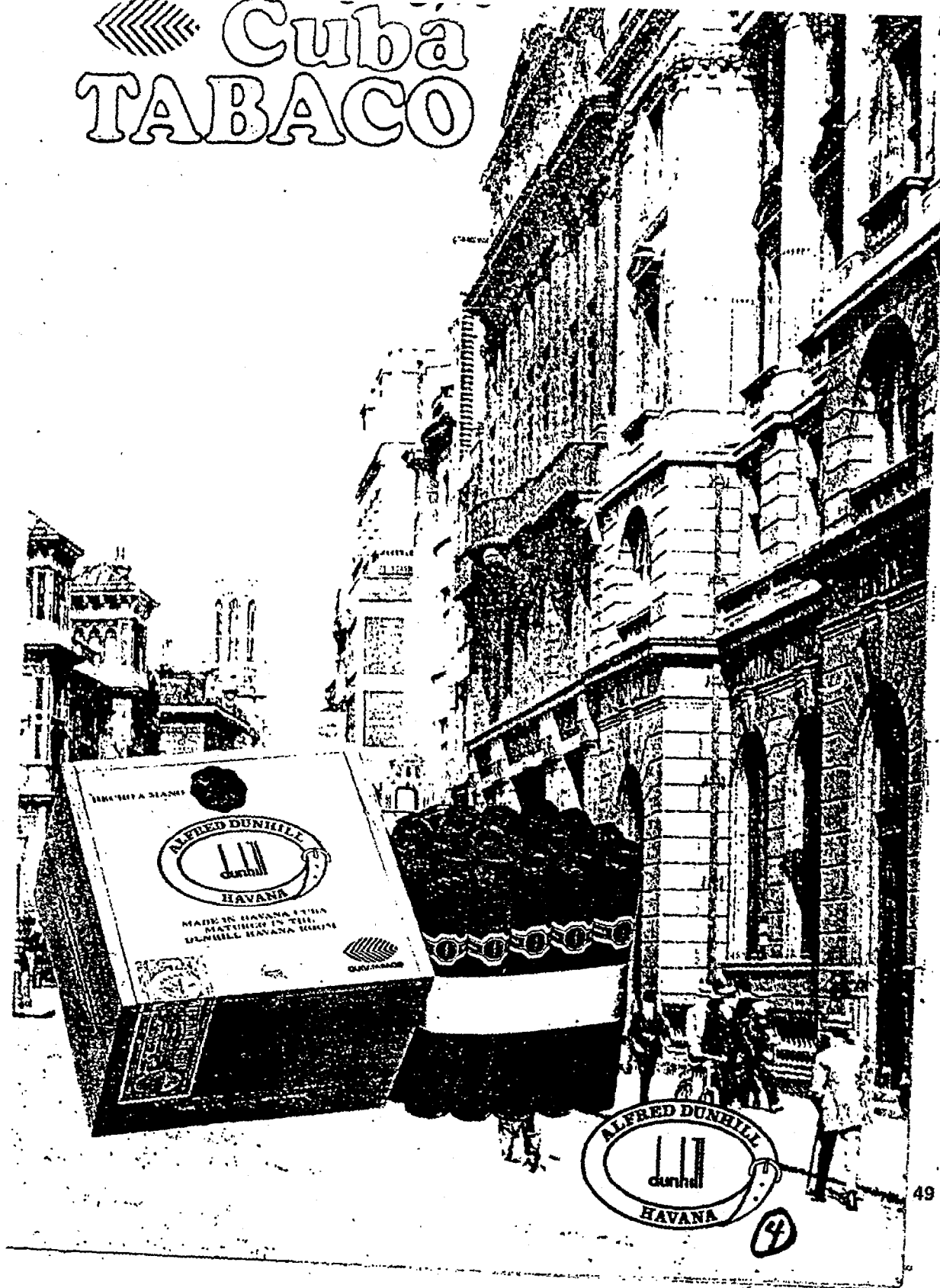
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**COHIBA: THE MOST DISTINGUISHED...
even among the Havana Cigars**



P18209

Cuba TABACO



P18226



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Cuba TABACO INTERNATIONAL

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Editorial Staff: Clemente Vera, Edma Martínez and Pedro Perdomo.
Advisory Council: Board of Directors of Cubatabaco.
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Ciudad Habana, Cuba. Telephones: 61-8453 and 62-3596.
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**COHIBA: THE MOST DISTINGUISHED...
even among the Havana Cigars**



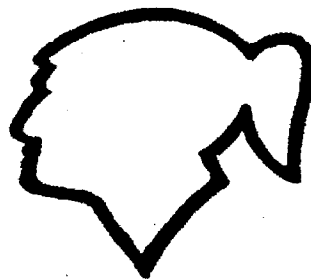
◀◀◀ Cuba
TABACO
INTERNATIONAL

HAVANAS
CIGARS

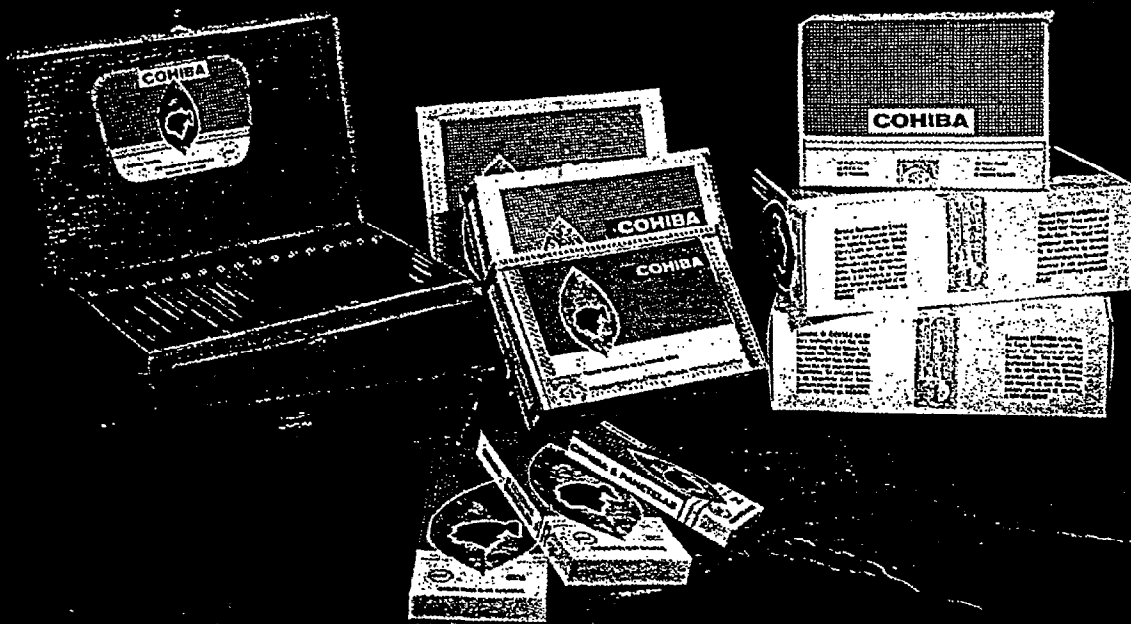


P 023975

COHIBA



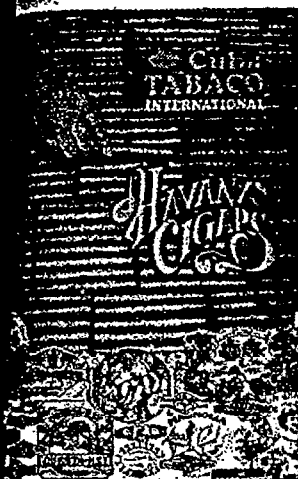
**COHIBA: THE MOST DISTINGUISHED...
even among the Havana Cigars**



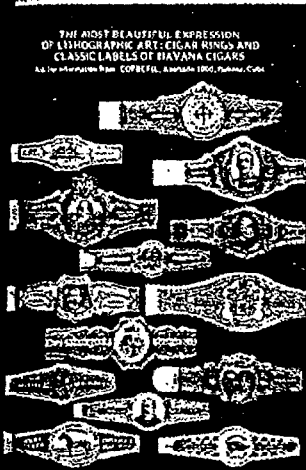
AFTER ANALYZING THEIR
EXTRAORDINARY QUALITIES,
THE REPUBLIC OF CUBA AWARDED THE
THREE TYPES OF "COHIBA" WITH THE MARK
OF "SUPERIOR QUALITY"



P 023976



COVER PHOTO:
DESIGN CARLOS ESPINOSA



BACK COVER PHOTO:
DESIGN ROBERTO CARDONA

Cuba TABACO INTERNATIONAL

No. 11, 1984

Semiannual review of the Cuban Tobacco Export Enterprise.
A CDED-MINAL publication.

Editor: Humberto Cabezas.

Editorial Manager: Zoila Couceyro.

Editorial Staff: Marcelino Valdés, Clemente Vera,

Edma Martínez and Pedro Perdomo.

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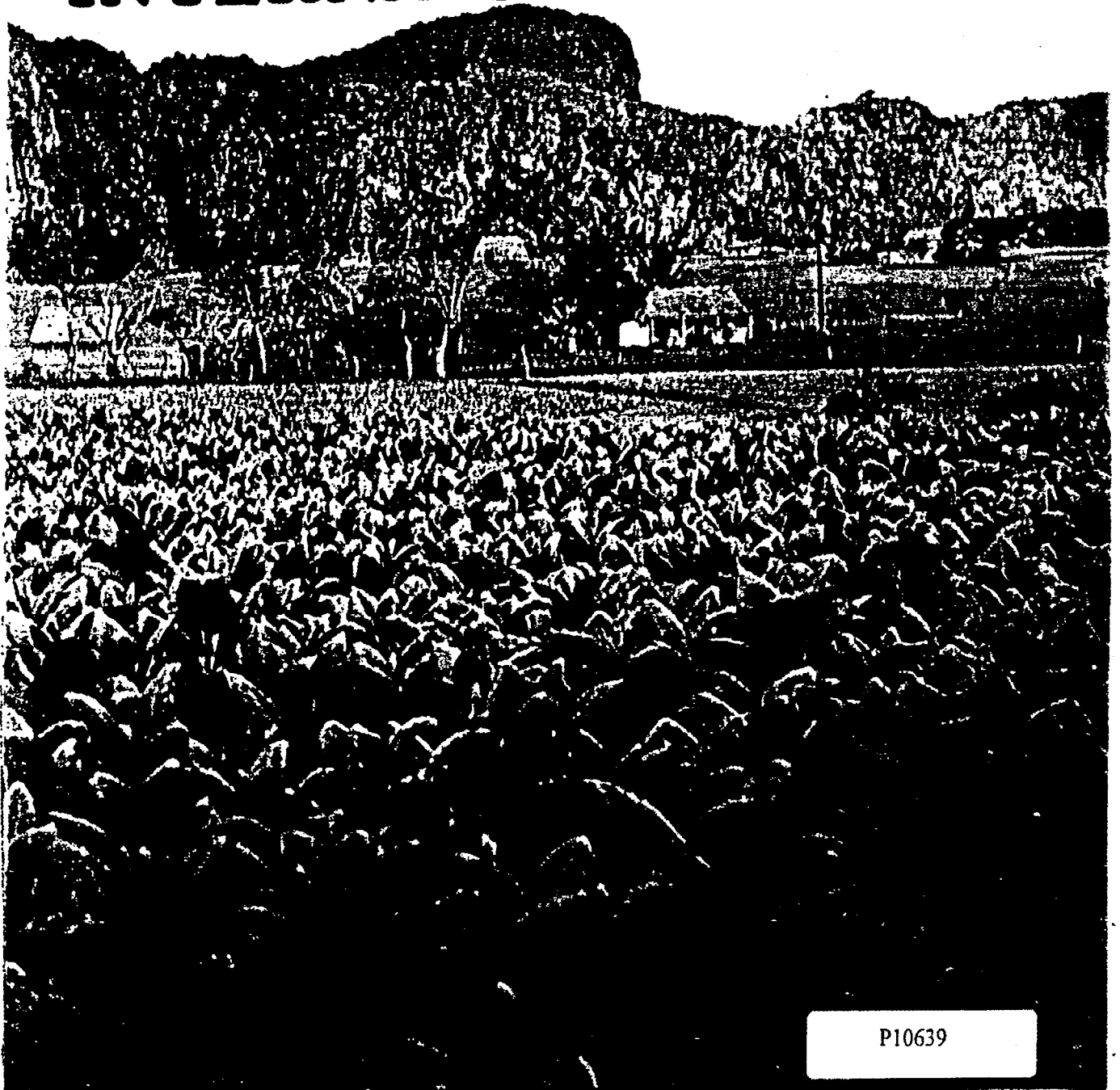
memoria; Cuba NL Francia Coprova 641836 F.

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Cuba TABACO INTERNATIONAL



P10639

THE BETTER AMONG THE BEST



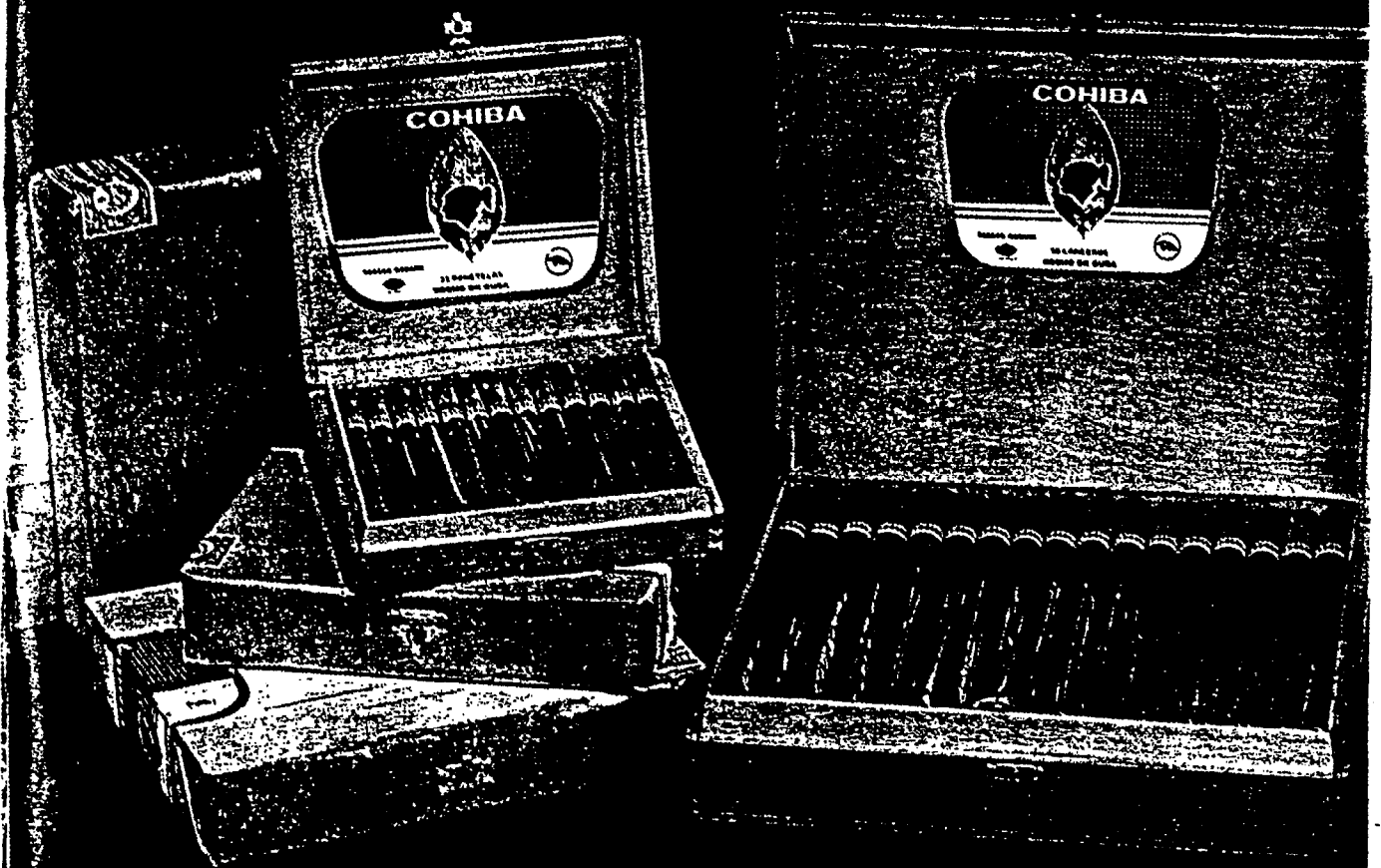
CUBATABACCO



P10640

COHIBA

The only cigar whose leaves are selected
by expert growers among the better plants of the best
tobacco plantations of Cuba.



P10641



Cuba TABACO INTERNATIONAL

No. 13, First semester, 1985

Semiannual review of the Cuban Tobacco Export Enterprise.
A CDED-MINAL publication.
Editor: Humberto Cabezas.
Editorial Manager: Zoila Couceyro.
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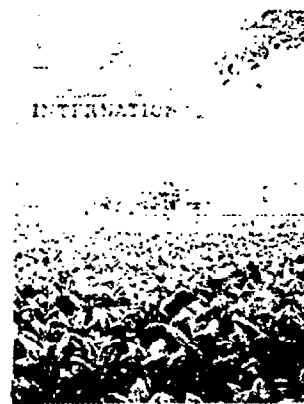
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COVER PHOTO: Pedro del Pino
BACK COVER PHOTO: Freddy



CUBATABACO INTERNATIONAL

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

For the mark COHIBA

Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273

For the mark COHIBA

Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix B to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**

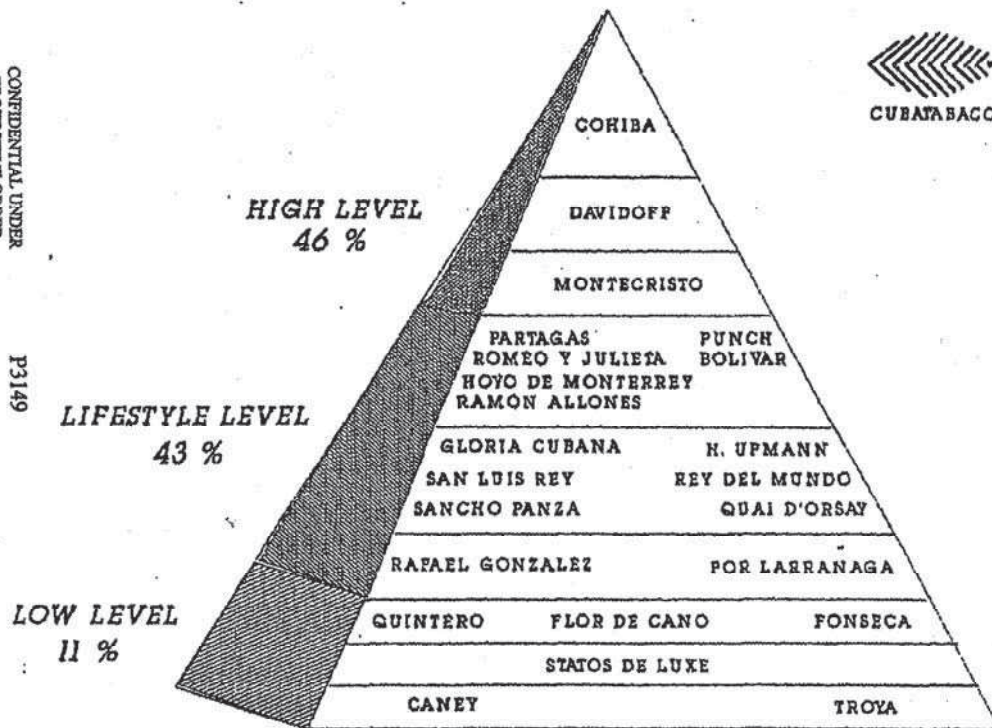


HAVANA CIGARS: BRAND POSITIONING



CONFIDENTIAL UNDER
PROTECTIVE ORDER

P3149



SOURCE: CUBATABACO

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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In the matter of Trademark Registration No. 1147309
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	:	Cancellation No. 92025859
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GENERAL CIGAR CO., INC.	:	
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix C to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**

Appendix C – Pyramid

Objetivos de las marcas

Pirámide de Consumo

Marcas de Habanos

- Marca Exclusiva
Exclusive Brand

• COHIBA

- Marcas estilo de vida
conservativo
Conservative Lifestyle Brands

• Davidoff

- Marcas estilo de vida
elegante
Elegant Lifestyle Brands

• Montecristo

- Marcas no generalizadas
Brands Not Widely Available

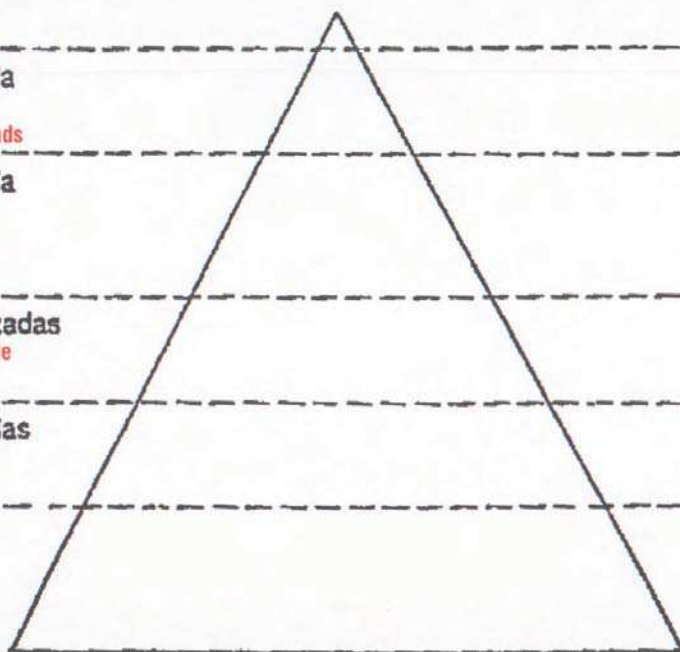
(*)

- Marcas especializadas
Specialized Brands

• Partagás
• R. y Julieta

- Marcas de bajos
precios
Low-Price Brands

• Quintero



Source: PX 1143

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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In the matter of Trademark Registration No. 1147309
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Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix D to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



35



COHIBA

El primer nombre
del tabaco

CONFIDENTIAL UNDER
PROTECTIVE ORDER

P3165

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix E to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



**APPENDIX E NON-U.S. NEWSPAPERS, MAGAZINES
AND BOOKS: 1982-11/29/92**

PX 1136	Bates Number	Publication, Title of Article
2.1	P 023934-35	Ottawa Citizen - 1987, "Havana Cigflation"
3	P 002552-55	Lui - 1989, "Cigars: Tumult in Cuba"
4	P 010773	Actualidad Tabaguera - 1982, "Auction of Cigars sent by Fidel Castro"
5	No. 84C of Plaintiff's Exhibits on S.J. Motion, P 010766-010768	Actualidad Tabaguera - January 1982, "Cuba will export "COHIBA Cigars"
6.1	P 024204-09, P 018939	El Pais - June 24, 1982, "People: Fidel Castro"
7	No. 180 of Plaintiff's Exhibits on S.J. Motion, P 010758-61	World Tobacco - July, 1982, "Cuba: For World Markets"
8	No. 84A of Plaintiff's Exhibits on S.J. Motion, P 010769-72	Actualidad Tabaguera - July 1982, "Presentation of the Cohiba"
9	P 011552-56	The Economist (UK) - August 20, 1983, "Havanother"
10	P 010966-68	Financial Times - September 12, 1985, "Havana comes to the defense of its cigar trade"
11.1	P 023936	The Toronto Star - December 24, 1985, "Castro butts out his cigars as "healthy example"
12	P 001027	Actualidad Tabaguera - May 1986, "Surprising: Fidel Castro abandons cigars"
13.1	P 024197-202, P 009873-81	Lui - July 1986, "Fidel's Cohibas"
14.1	P 000512, P 000516-17	Le Guide des Connaissseurs - November 1986, "Cigar lovers, here is Castro's cigar"
15.1	P 023937-40	Financial Times - November 29, 1986, "Aristocrats in a Humidor"
16	P 000518-22	Horeca News - April 1987, "Cohiba: Castromania for Gastronomiacs"
17	P 008749	Actualidad Tabaguera - April 1987, "The Craft of Tobacco"
18.1	P 023941-44	The Guardian - May 18, 1987, "Eating out with Atwood"
19.1	P 23945-46	The Toronto Star - November 2, 1987, "Fidel sends his best - Cigars"
20.1	P 023947-49	Business (Canada) - January 1988 (untitled with cartoon)

**APPENDIX E NON-U.S. NEWSPAPERS, MAGAZINES
AND BOOKS: 1982-11/29/92**

PX 1136	Bates Number	Publication, Title of Article
21.1	P 023950-52, P 001026	Actualidad Economica - January 11, 1988, "Voyage to the Cradle of Tobacco"
22	P 016207-10	The Toronto Star - June 6, 1988, "Despite anti-smoking crusade, Cuban cigars light up his life"
23.1	P 023953-55	Financial Times - November 27, 1988, "New lease on life for endangered species"
24	P 011559-60	Sunday Times Magazine - December 11, 1988, "The Great Marks"
25	P 003221	The Daily Telegraph - July 14, 1989, "Smoke Signals"
26	P 003222	West Sussex Gazette - July 20, 1989, "Skilled Craft revealed of cigar-rolling"
27	P 003223	Daily Express - July 22, 1989, "The Good Life"
28	P 017248-49	Le Monde - August 7, 1989, "Honeymoon between Cuba and Davidoff goes up in Smoke"
29	P 010944-46	Financial Times - August 9, 1989, "Cuba cigar deal goes up in Smoke"
30	P 000444	Quotidien de Paris - September 28, 1989, "Worth Repeating"
32.1	P 024192, P 017250-52	Le Point - October 9, 1989, "Cigars: the War of Cuban Independence"
33	P 000439	Quotidien de Paris - October 10, 1989, "The Cohiba" Le Parisien - October 10, 1989, "Castro's cigar arrives"
34	P 000440	Nouvelle Republique du Centre Ouest - October 10, 1989, "The Cohiba disembarks" Depeches de Dijon - October 10, 1989, "Castro's cigar disembarks" Dernieres Nouvelles d'Alsace - October 10, 1989, "Castro's cigar arrives" Le Progress - October 10, 1989, "Castro's cigar disembarks in France"
35	P 000441	Progres de FeCamp - October 10, 1989, "The Cohiba arrives" Havre Presse - October 10, 1989, "The Cohiba arrives" Berry Republicain - October 10, 1989, "Cigar"
36	P 000442	Tribune le Progres - October 10, 1989, "Castro's cigar disembarks in France"
37	P 000443	Sud Ouest - October 10, 1989, "The Cigar of Cigars" Courrier de Saone et Loire - October 10, 1989, "The Cigar of Castro" Havre Libre - October 11, 1989, "The Cohiba arrives in France"
38	P 002525	Le Figaro - October 11, 1989, "Castro sets off a cigar war"
39	P 002526	Liberation Champagne - October 12, 1989, "The war of cigars"
40	P 002527	Yonne Republican - October 12, 1989, "Cigars: the big models arrive" L'Ardennais - October 12, 1989, "Cigars: The torch burns between Castro and Davidoff"
43	P 000445	Republicain Lorrain - October 14, 1989, "Castro's cigar disembarks in France"
44	P 002533	Republicain Lorrain - October 14, 1989, "Castro's cigar disembarks in France"
45	P 000446	Nord Elclair - October 15, 1989, "Castro invades France" Le Figaro - October 16, 1989, "Castro's cigars in France"

**APPENDIX E NON-U.S. NEWSPAPERS, MAGAZINES
AND BOOKS: 1982-11/29/92**

PX 1136	Bates Number	Publication, Title of Article
47	P 000447	L'Aurore - October 16, 1989 "Castro's cigars France"
49	P 17253-54	Liberation - October 21, 1989, "The Cuban cigar cuts the cheque of Davidoff"
50.1	La Grande Histoire du Cigare (complete)	La Grande Histoire du CIGARE - October 1989, (Book) The Great History of Cigars
51.1	P 023596-59, P 000431, 453-54	L'Evenement du Jeudi - November 2, 1989,
52.1	P 023969, P 016892	Le Moniteur - November 5, 1989, "Cohiba conquers France"
53.1	P 024193, P 000445-56	VSD - November 8, 1989, "All new, all expensive"
54	P 000556-560	El Independiente - November 12, 1989, "Smoke of Kings"
55	P 016201-203	The Toronto Star - November 16, 1989, "Metro tobacconist becomes our chief cigar man in Havana"
56.1	P 003227-29	Renaissance - December 1989, "Torpedoes or Pleasures"
57.1	P 024194-96, P 016887-88	Revu de Vin de France - December 1989, "The Story of Cohiba"
58.1	P 023960-66	Business (Great Britain) - December 1989, "Cuba's rolled gold"
59	P 010939-43	Manchester Guardian - December 24, 1989, "Smoke settles in the great Havana cigar war"
60	P 016194-97	World Tobacco - March 1990, "Concern over supplies of Havana cigars"
61.1	P 023967-68, P 017255-56	Le Monde - March 31, 1990, "Gastronomy of Cigars"
63	P 016853	La Marseillaise - July 2, 1990, "A Cuban cigar, without equal"
67	P 016152-55	The Times - September 10, 1991, "Castro rations Cuban cigars"
68.1	P 023970-74, P 016149-51	The Times - October 25, 1991, photograph of Edward Sahakian "Sampling a Cuban Cohiba robusto"
69	P 010907-09	The Times - February 29, 1992, "Rolled gold out of Havana"
70	P 017257-58	Le Monde - April 11, 1992, "Storm over wrappers"
71	P 001231-33	South China Morning Post - September 16, 1992, "Tang out to conquer cigar market"
72	P 001217-19	Sunday Morning Post Magazine - September 20, 1992, "Invendo"
73.1	P 024210-12, P 012797	International Herald Tribune - October 2, 1992, "The Hong Kong Cigar Divan"
74	P 002018	The Independent - October 11, 1992, "Bunhill: Cuban cigars"

**APPENDIX E NON-U.S. NEWSPAPERS, MAGAZINES
AND BOOKS: 1982-11/29/92**

PX 1136	Bates Number	Publication, Title of Article
75	P 010888-90	Journal of Commerce - November 6, 1992, "Commemorative Cigar Introduced by Cuba"
76	P 010885-87	Financial Times - November 11, 1992, "Cuba fumes over Havana name game"
77	P 010876-78	Financial Times - November 29, 1992, "An expensive whiff of smoke"
78	P 000222-28	L'Agenda du Cigare 1993 (book) - 1992,
79	P 018491-99	The Connoisseur's Guide to Havana Cigars (book) - 1992
80	P 018534-38	Cuba (book) - 1984,

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----	X	

PARTY DESIGNATION: See Appendix Cover Sheets

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony and Appendices of Ana Lopez Garcia, dated May 27, 2003
Part 2 of 4**

(Appendices to Written Direct Testimony not highlighted to preserve clarity)

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309

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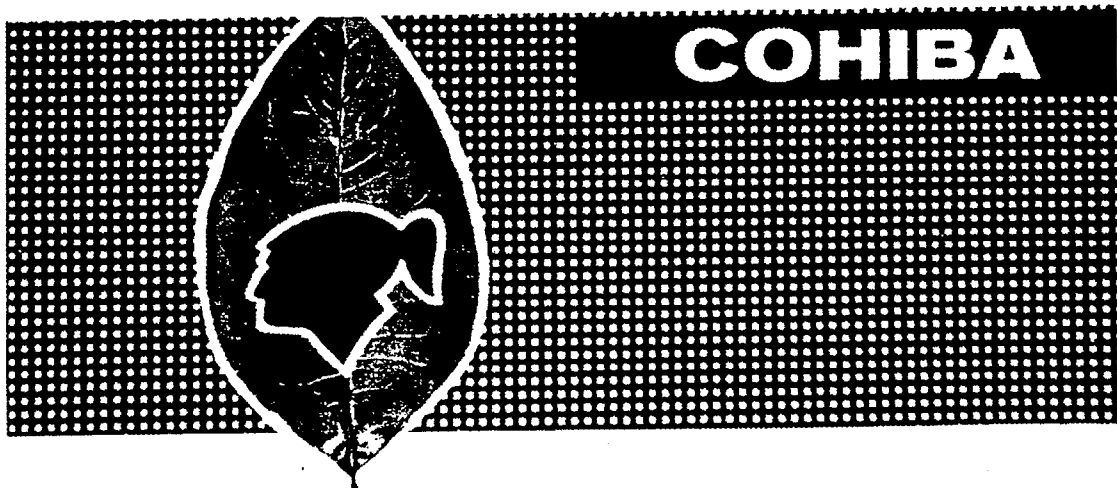
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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
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Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
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Respondent.	:	
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix F to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**





LEGITIMO TABACO IMPORTADO DE LA HABANA, CUBA

P3395

PLAINTIFF'S EXHIBIT 037



FABRICA DE TABACOS
SAINT LUIS REY



HABANA
MADE IN HABANA, CUBA



"MADE IN HAVANA-CUBA"



ELABORADOS EXCLUSIVAMENTE CON RAMA DE VUELTA ABRAO DE ESCOGIDA PROPIA
MANUFACTURED EXCLUSIVELY WITH VUELTA ABRAO LEAF OF OUR OWN SELECTION



MADE IN HAVANA, CUBA









**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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For the mark COHIBA

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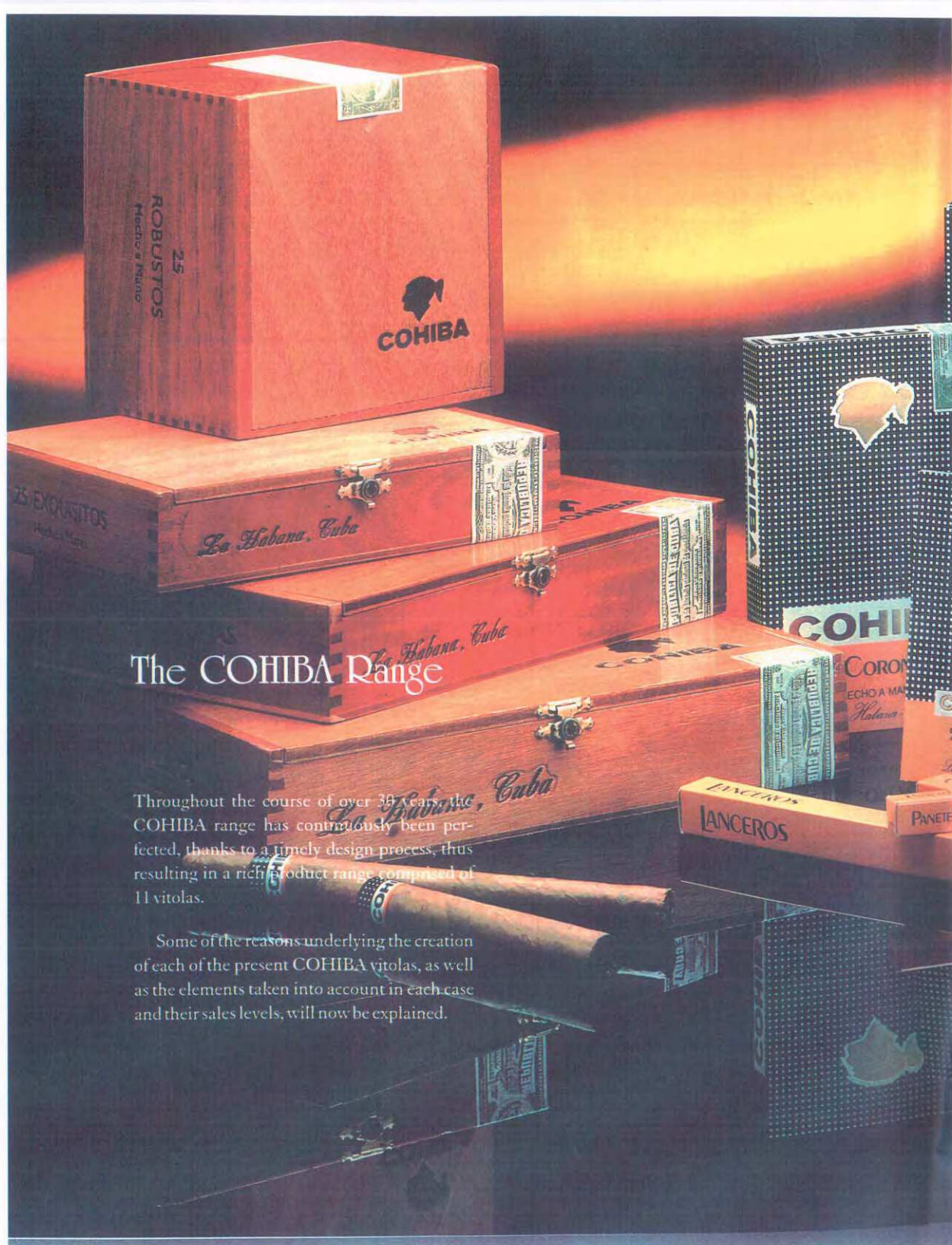
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
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	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
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Respondent.	:	
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

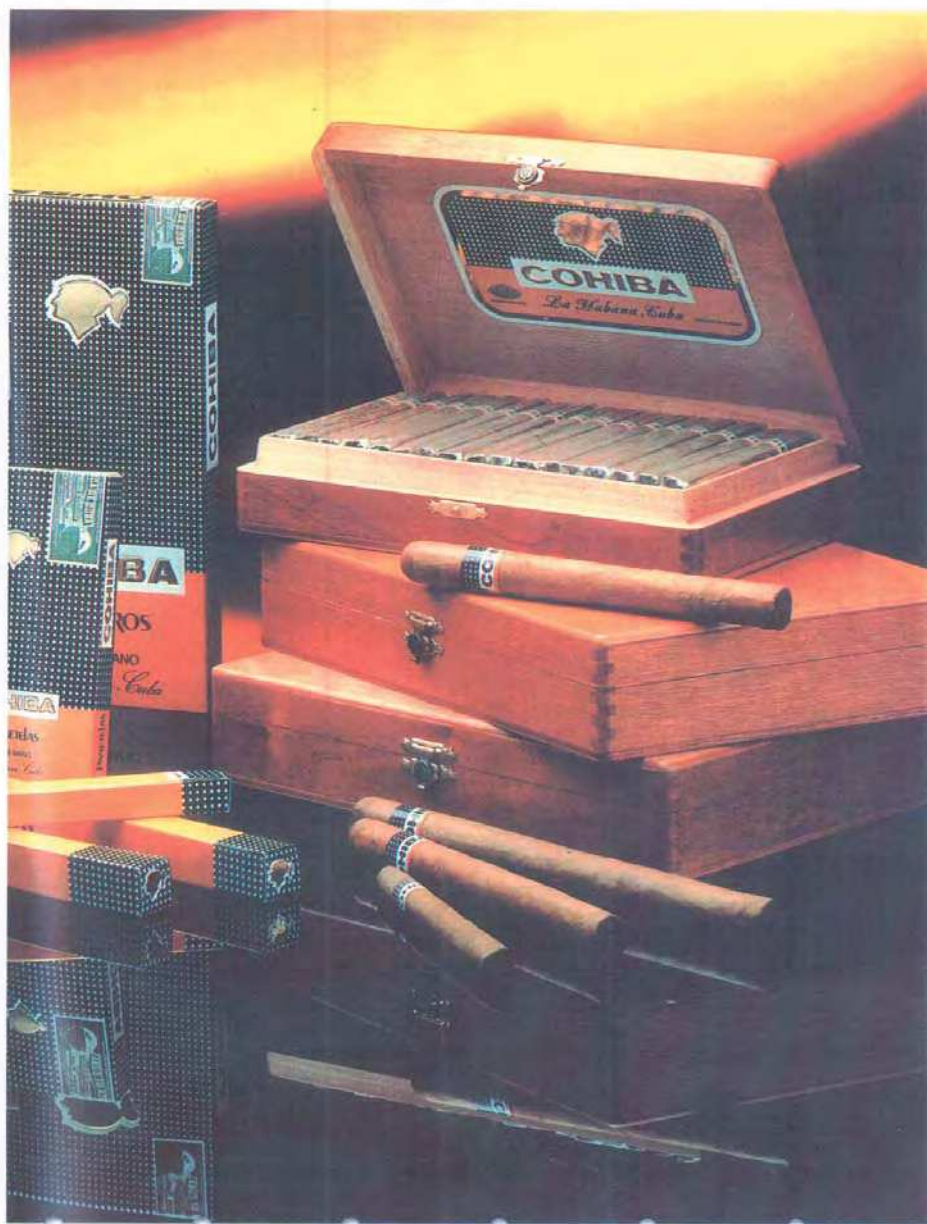
**Appendix G to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



The COHIBA Range

Throughout the course of over 30 years, the COHIBA range has continuously been perfected, thanks to a timely design process, thus resulting in a rich product range comprised of 11 vitolas.

Some of the reasons underlying the creation of each of the present COHIBA vitolas, as well as the elements taken into account in each case and their sales levels, will now be explained.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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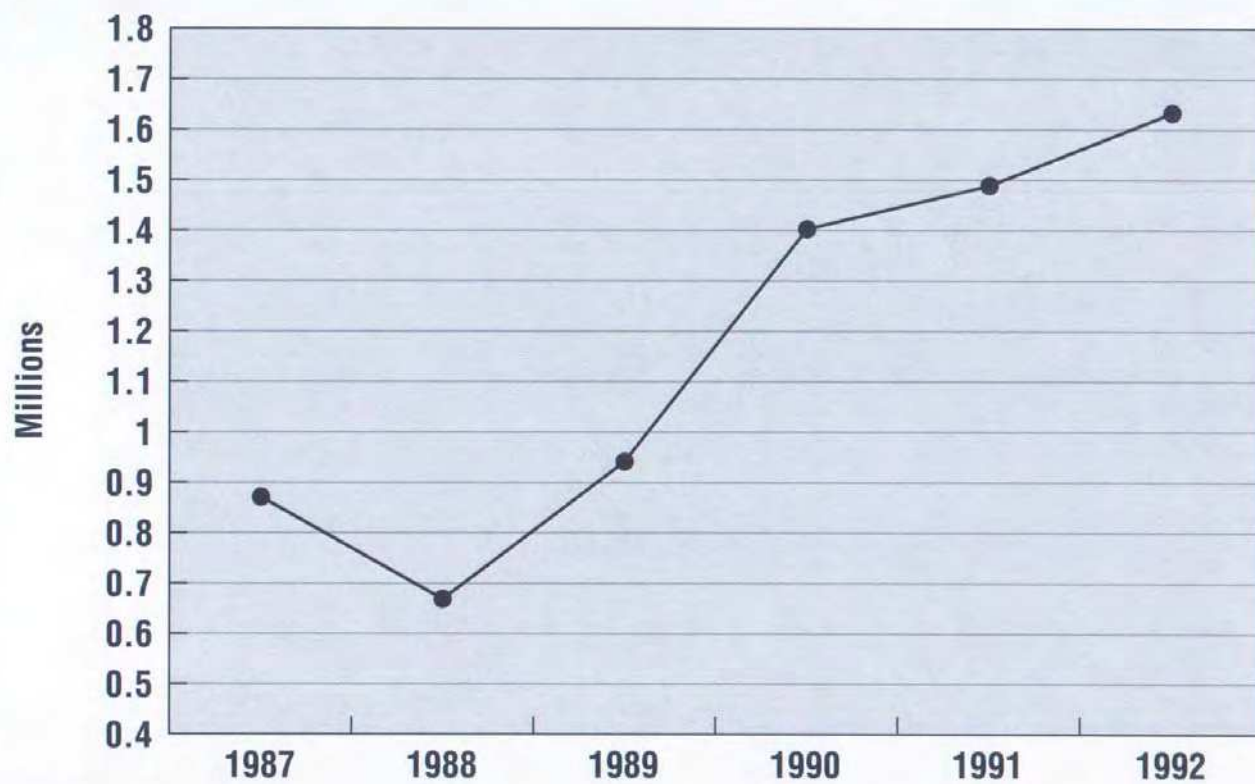
PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix H to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



Appendix H – Cuban Cohiba Annual Exports: 1987-92



Source: PX00039

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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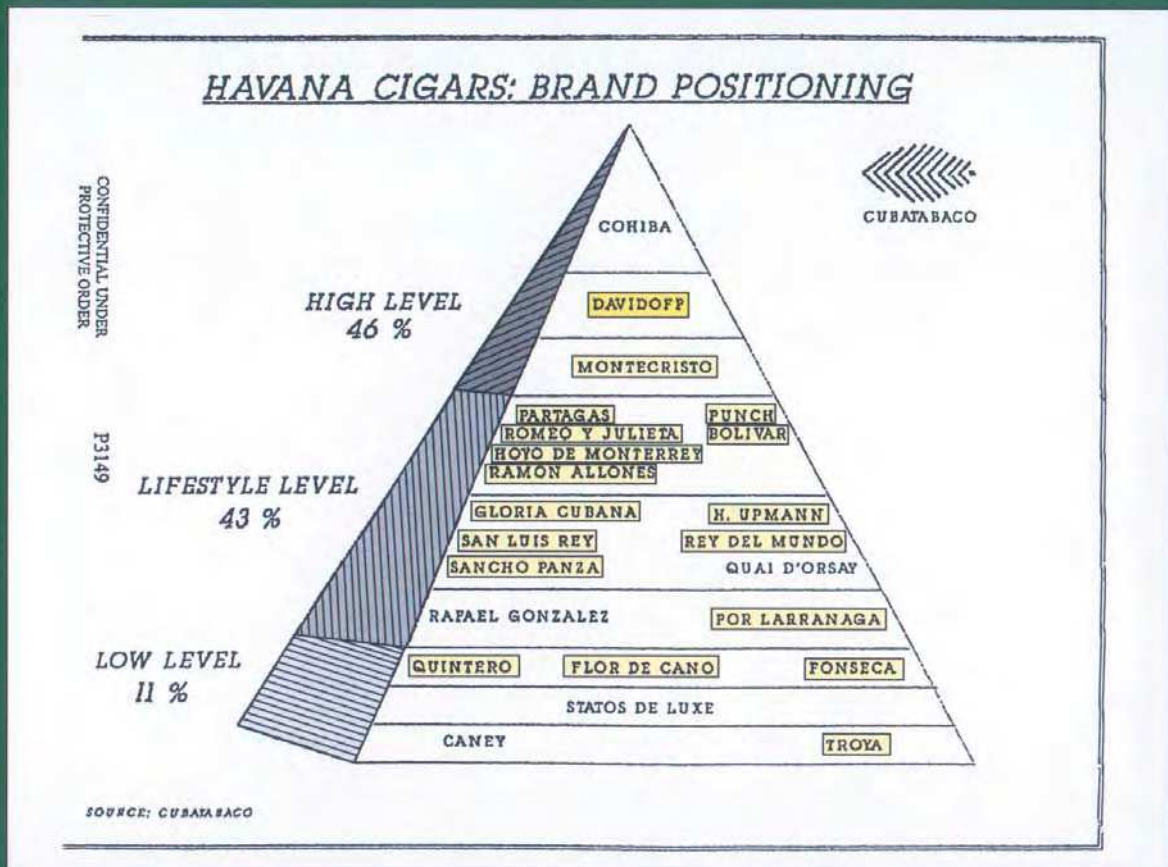
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DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix I to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**

Appendix I – 'Parallel Brands'



■ = "Parallel Brand"

■ = Same manufacturer; made in Cuba for sale in non-U.S. markets and later made outside of Cuba

Source: PX 1143;
Testimony of Ana Lopez Garcia

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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In the matter of Trademark Registration No. 1147309
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix J to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



PREMIER ISSUE

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AUTUMN 1992

CIGAR

Aficionado



AMERICA'S
FAVORITE CIGARS

GAY TALESE ON
STREETWALKING

CIGAR-FRIENDLY
RESTAURANTS

JFK'S CUBA
CONNECTION

■ TASTING ROBUSTOS

■ GREGORY HINES

■ 1492, THE MOVIE

■ COLLECTING LALIQUE

■ CUBA'S BEST CIGAR

AND MUCH, MUCH MORE





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Marvin R. Shanken welcomes readers to the premier issue of CIGAR AFICIONADO.

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CONTRIBUTORS

We are as proud as proud can be with the outstanding writers who contributed to the premier issue of CIGAR AFICIONADO.

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THE CLUB

An exclusive research report on cigar smokers across America conducted by CIGAR AFICIONADO.

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OUT OF THE HUMIDOR

Undaunted, cigar lovers speak out on their panatella passion.

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A TASTING OF ROBUSTOS

The hot cigar of the 90s. A blind tasting of Cuban and non-Cuban cigar brands in the short, fat robusto/Rothschild size.

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WALKING MY CIGAR

by Gay Talese

An essay about the trials and tribulations of a dedicated cigar smoker in New York City.

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CUBA'S COHIBA

by James Suckling

An inside look at Cuba's legendary brand, perhaps the world's finest smoke. Plus a tasting of the brand's six sizes.

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CHRISTOPHER COLUMBUS IN 1992

by Paul Churkow

The movie, 1492, opens in theaters around the world on Oct. 9. Ridley Scott directs and Gérard Depardieu stars as Christopher Columbus.

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DOMINICAN REPUBLIC CIGARS: AMERICA'S FAVORITE

by Gordon Mott

Who makes these great smokes? Why have they won the hearts of U.S. cigar lovers?



COHIBA

The first name
in cigars

 **Habanos**
Unique since 1492

Vol. 1 No. 2

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WINTER 1992/93

CIGAR

Aficionado



COPPOLA

CUBA

DOUBLE CORONAS

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BIG CIGARS, BIG FLAVOR

A blind tasting of double corona cigars



COHIBA

The first name
in cigars

 **Habanos**
Unique since 1492

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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PARTY DESIGNATION: See Appendix Cover Sheet

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony and Appendices of Ana Lopez Garcia, dated May 27, 2003
Part 3 of 4**

(Appendices to Written Direct Testimony not highlighted to preserve clarity)

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
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GENERAL CIGAR CO., INC.	:	
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix K to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



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FIDEL

EXCLUSIVE
INTERVIEW



CIGAR CLUBS • RED AUERBACH • GREAT RUMS • TIFFANY GLASS



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RATING CORONA GORDAS

Oversized coronas are a popular smoke. In this issue, we rate 56 and find an unusually wide range of quality.

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INTERVIEW WITH
FIDEL CASTRO

Marvin R. Shanken, Editor and Publisher of CIGAR AFICIONADO, spent three hours with Cuban President Fidel Castro. His interview covers Castro's former love for cigars, the U.S. trade embargo and the Cuban leader's future.

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THE ART OF
CIGAR BOXES

Cigar-box labels once showcased some of the finest lithographic art in the world. There were literally hundreds of thousands of examples—from custom-designed scenes for individuals to well-known brand names.



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A CIGAR FAMILY

The F. D. Graves family has been producing Muniermaker cigars for three generations in New Haven, Connecticut. The brand still sells more than 7 million cigars a year.

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PEOPLE:

RED AUERBACH

Red Auerbach, cigar in hand, was on the bench or at the helm of the Boston Celtics for 16 NBA championships. While Celtic luck has fallen on hard times, Auerbach still weighs in with advice and guidance.

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H. L. MENCKEN'S LEGACY

H. L. Mencken was the leading commentator in the United States during the Depression and the Second World War. His columns kept politicians on their toes and the world waiting for his next opinion.

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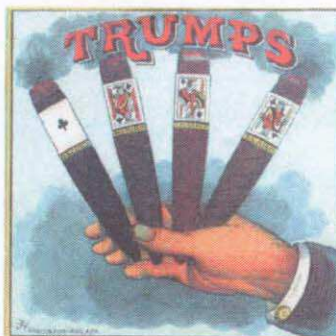
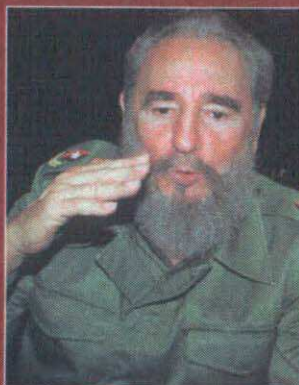
MEMBERS ONLY

Cigar clubs have sprouted up across the United States. The phenomenon is part backlash against strict no-smoking regulations and partially a tribute to camaraderie.

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BUYER BEWARE

Counterfeit cigars are in circulation around the world. Top Cuban brands, such as Cohiba, are often the most suspect, but cigars from the Dominican Republic and the United States have also been forged.



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GAMBLING: GAMBLIN' MAN

What Archie Karas did seems impossible: he started with \$10,000 and turned it into \$17 million in six months of pool, craps and poker at the gaming tables in Las Vegas.

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DRINKS: TROPICAL TREAT

A great rum triggers images of a tropical beach and a hammock. But more than that, aged rums are some of the finest and most complex spirit drinks available. Tasters review 19 rums from around the world.

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TOY TRAINS

Everyone has memories of that scale-model replica chugging around the tree on Christmas morning. There is a thriving market today for antique toy trains and new replicas of that childhood dream.

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Louis Comfort Tiffany was one of America's premier glass-makers. Today, some of his works, especially the Art Nouveau lamps, command top dollar.

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THE CIGAR ADVISER

Questions and answers for cigar lovers

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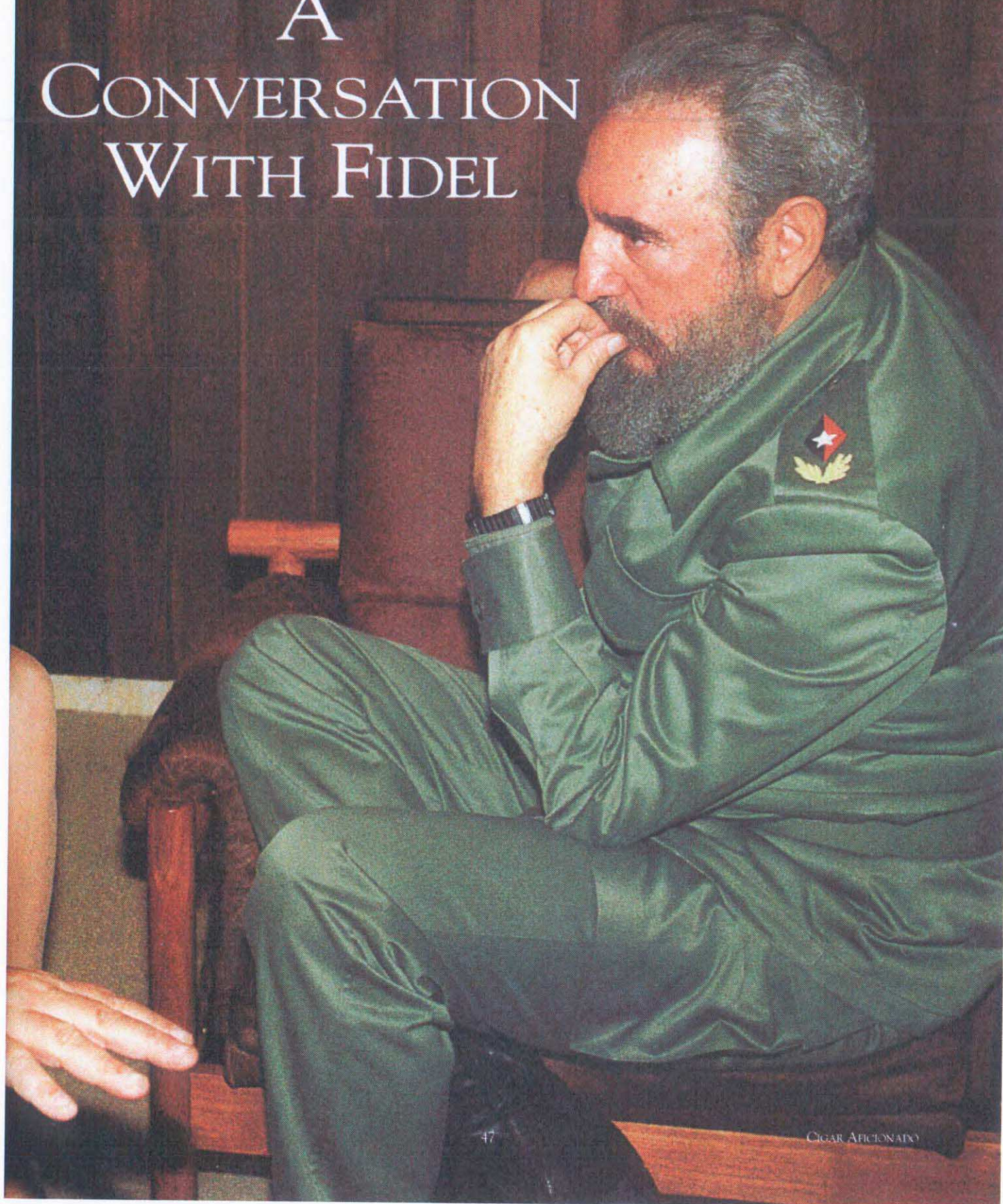
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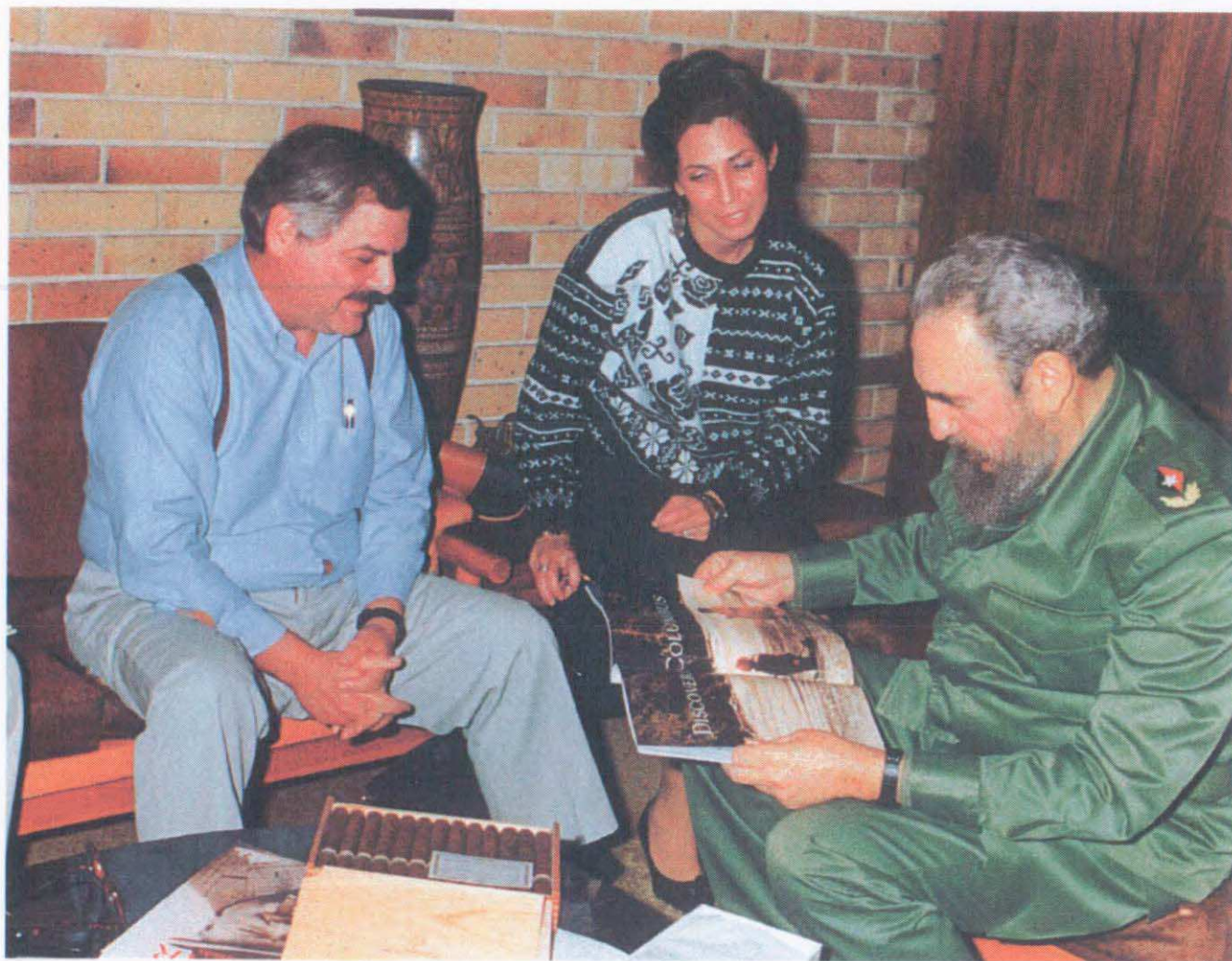
OPINION: A PSYCHIATRIST'S PRESCRIPTION

A psychiatrist argues that relaxing with a cigar may be one of the best things you can do for a healthy state of mind.

A CONVERSATION WITH FIDEL







When the moment seemed right, I said, "Fidel, my readers would love to hear from you; I have a few questions." He nodded his head, and from out of nowhere came an assistant with a tape recorder along with the palace photographer.

Fidel was happy to talk about cigars, even though he stopped smoking eight years ago... and he remembers the exact day he quit. He still keeps tabs on the cigar industry, which produces Cuba's most prestigious export. He has fond memories back to the age of 15, when his father first introduced him to cigars, and of his days when he was seldom photographed without a cigar in his hand.

Castro clearly relished discussing his country's cigars. After more than an hour, the interview turned to subjects that trouble the Cuban leader and interest all of us — the country's economy, the 33-year-old trade embargo imposed by the United States and his own future.

It's no secret that Cuba is going through tough times. Shortages of food, clothing, medical supplies, gasoline and electricity are common. There's good reason. The breakup of the Soviet Union and the demise of other members of the socialist bloc have left Cuba's nearly 11 million people without their most important benefactors and their billions of dollars a year in aid and subsidies.

President Castro was ready to talk about a world without an embargo. He talked about how peace between nations should depend on their respect for one another's sovereignty. He spoke of the United States' history and fight for independence. He was pointed in his comments about who should take the first step to end the impasse. He also left no doubt about his own plans during this difficult period in Cuba's history and in the future.

It was almost 3:00 A.M. when we finished, and the last of the photographs, by CIGAR AFICIONADO European Editor James Suckling, had been taken. It seemed then that we could have talked for several more hours. But I had finished the list of questions...and was already anxious to share this very special evening with the readers of CIGAR AFICIONADO. ♦

Marvin R. Shanken
Editor and Publisher



A LATE NIGHT WITH FIDEL

HAVANA—

It was nearly midnight. Rain and stillness filled the air.

After nearly two years of unrelenting letters and phone calls with Cuban diplomats in the United States, Europe and Cuba, I was about to get my wish: a private audience with President Fidel Castro. My time had come. It was Thursday, February 3, 1994. A number of meetings and telephone conversations beginning at 8:00 A.M. and continuing throughout the day preceded a night I will long remember. At each point along the way the response: "Maybe tonight," "we can't promise," "it looks like it may happen," or "it's looking good." No one would say, "yes, tonight you will meet *el presidente*," but I saw in their eyes that my time was near. And with all my persistence, they, my Cuban connections, were rooting for me.

I had been told to stay in the Hotel Nacional that evening and be in my room at 10:30 P.M. on standby, waiting for the call. A nerve-racking hour-and-fifteen-minutes later than promised it came. I was asked to meet a Foreign Affairs official in the lobby, a woman I had met with several hours earlier.

"Are you ready?" she asked.

"As ready as I'll ever be," I replied.

We walked down the front steps of the hotel into the silent night air. Waiting by the curb was a chauffeur-driven, older, dark-blue Mercedes. Off we drove into the narrow streets of the city. It was now about midnight.

"Where are we going?"

"To the Palace."

"The Palace?"

"The Palace of the Revolution."

It was at this moment that I finally realized it was *really* happening. Cigar lovers from around the world were going to have their day. In a significant departure, Castro was about to give one of his very rare one-on-one interviews in his 35-year reign—not to *The New York Times*, *The Washington Post*, *Time*, CBS, ABC or CNN, but to the editor and publisher of a two-year-old, small circulation, special-interest magazine called CIGAR AFICIONADO.

Pinch me! Am I dreaming or what?

Upon arriving at what seemed to be the back entrance of the Palace, I was whisked through double glass doors into an elevator, where a security guard pressed "3." From there, I was escorted into a large, simply furnished reception room while my bags were taken away for a security check.

A half hour later, roughly 12:45 A.M., a gentleman dressed casually in a powder-blue shirt and tan slacks entered the room, smiled and said, "please come with me." I was wired and ready, if you know what I mean.

We walked down a wide hall, then took a right turn down a long, narrow hallway lined with armed soldiers. At the end of the hallway, there was a small group of soldiers clustered by an open door to the left.

I reached the door, and there he was, standing inside the entrance in his familiar, olive-green military uniform, waiting to greet me.

We shook hands; we both smiled, then he led me to a corner of his expansive office, where we sat and began our visit.

I told him that I had two dreams. The first, as would be true for almost any cigar lover, was to visit Cuba's cigar factories and the Vuelta Abajo. The second was to meet Fidel Castro and "talk cigars." As this was my fifth visit to Cuba "on assignment," the first dream had already been realized. Tonight, my second dream was now coming true.

We spent the first half hour getting acquainted, talking about the magazine, Cuba, cigars—you name it. He had lots of questions. He told me he is a big fan of my magazine. He likes the articles, the photographs, even the paper stock. He wanted to know about my readers. Who you are, where you live and how the magazine is doing. I unashamedly told him the truth—the magazine is doing fantastically well.

Marvin R. Shanken, editor and publisher of *CIGAR AFICIONADO*, interviewed Cuban President Fidel Castro in Havana on Feb. 3, 1994 at the Palace of the Revolution. The interview focused on cigars, but touched on the United States trade embargo and President Castro's future.

SHANKEN: *How important are cigars to Cuba?*

CASTRO: It is one of our most important export items. It is also one of our main sources of revenues. It is also an important factor for us in the domestic market. In addition to that, we have the hard currency which comes from exporting cigars. Cigars are one of the four or five most important items of export that we have. First, it's sugar, then nickel, fish, tourism. These are the main items that provide revenues. Biotechnology is gaining ground as well as the pharmaceutical industry. And now cigars are more or less in the fifth place. Historically it has been very important.

SHANKEN: *Is there any Cuban export that carries as much prestige today?*

CASTRO: The cigar has made our country famous. It has given prestige to our country. Cuba is known among other things for the quality of its cigars.

SHANKEN: *It's also a craft with great tradition. When you feel it, when you smell it, when you look at it, you realize that great dedication has gone into the creation of every cigar. People have spent their lives making the cigars—some of the rollers have been making cigars for 30, 40, 50 years. To an aficionado, cigar making is like one of Beethoven's symphonies.*

CASTRO: You are right. Lots of things go into making Cuban cigars, both in cultivation and in the manufacturing. To tell you the truth, it is very hard work, especially growing quality tobacco. It requires a lot of operations. The cultivation and choosing the right leaves for the cigars are really an art. And then making cigars is really beautiful. It also very much relates to the history of Cuba and to the struggle of independence for Cuba. Many of the people who migrated to Cuba later worked in the cigar factories, and they were very active in the struggle for independence during colonial times.

SHANKEN: *When you build a warehouse or a road, it's hard work, but it's much different than making a cigar. Cigar lovers appreciate the craft. Other people, nonsmokers, have no idea about the labor and passion that goes into tobacco farming and cigar making.*

CASTRO: Yes.

SHANKEN: *For many years, the world saw photographs of you smoking a cigar or holding a cigar in your hand, as you did just a moment ago...as you are now doing. (Castro picks up a Cohiba Esplendido with his right hand.) For the past seven or eight years, you have stopped smoking cigars. Don't you miss them?*

CASTRO: I should explain that. I got used to smoking in my early years. My father was a cigar smoker, and he really appreciated a fine cigar. My father was Spanish, and he originally came from Galicia.

He was from the countryside. I remember when I was a teenager in high school. I was about 15 years old. I had lunch with my father when he presented me with a cigar. So he introduced me to cigars and he also taught me to drink wine....

SHANKEN: *So he was a wine lover.*

CASTRO: He used to smoke Cuban cigars and drink Spanish wine. And he taught me about both things. He liked wines from Rioja. I always smoked cigars and, on very few occasions, cigarettes. But I always kept the habit of smoking cigars. So I was always a cigar smoker, as far as I can remember, since I was 15 years old until I was about 59 years old. That's about 44 years of being a cigar smoker.

On two occasions in my life I didn't smoke. Once was during the Revolution because there was a great movement against cigars as a result of an uprising of the peasants on the plantations, and tobacco production went down. There was a great spirit against cigars. In order to be in solidarity with them, I quit for some time. But that was the only reason. Soon production recovered, and I started smoking again.

Later I did not smoke because of reasons of health. Many people in our country were against smoking. I didn't not smoke because I didn't like cigars. I was very much in the habit. But there was a whole national movement against smoking.

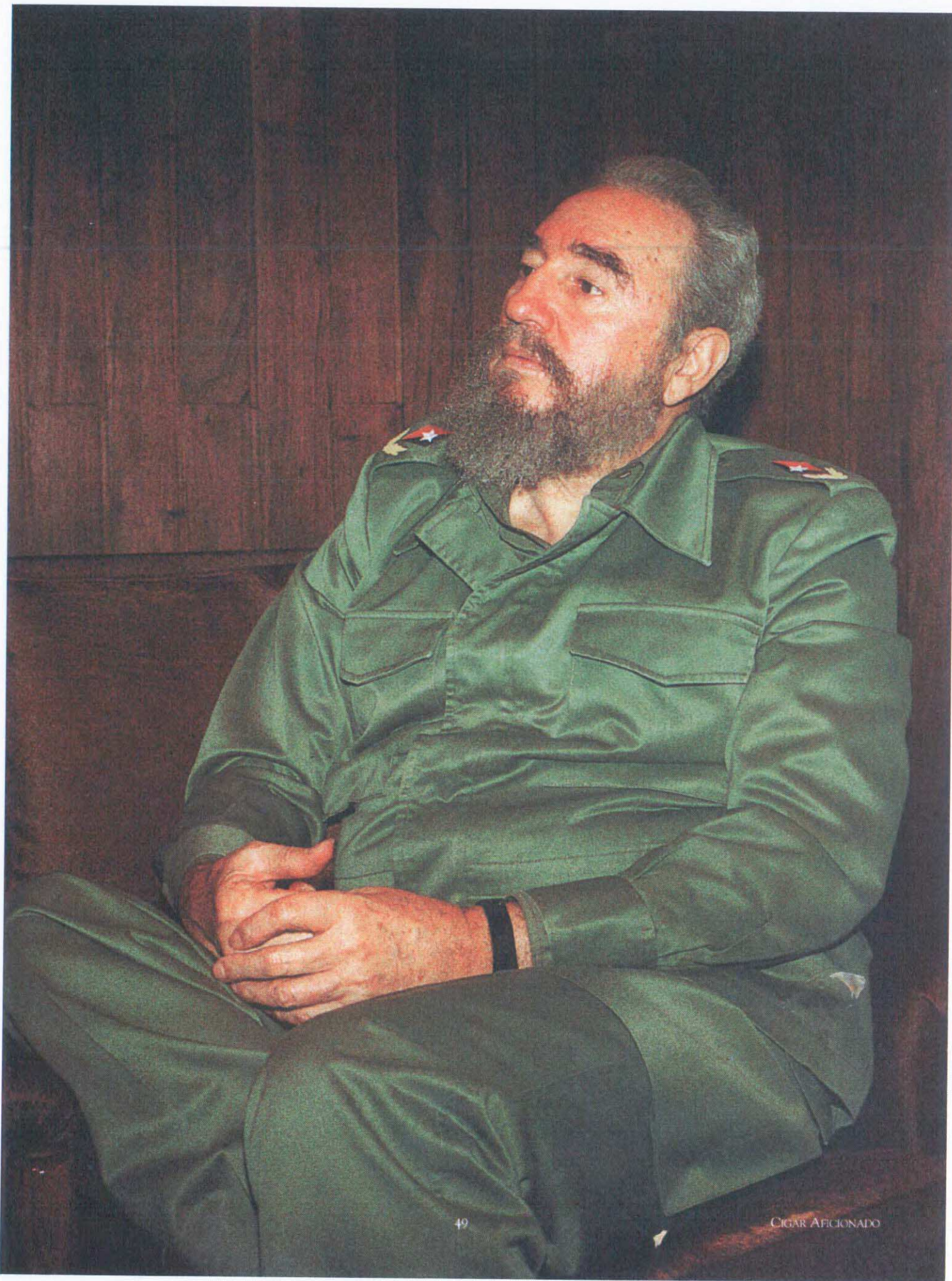
SHANKEN: *In what year was this?*

CASTRO: I can't remember exactly. It was '84 or '85. No. It was on Aug. 26, 1985. It was when there

was a general health issue in Cuba against smoking. At first, I thought that I would simply try not to smoke in public for this campaign against smoking, and I did not make a commitment to it. I used to be with a cigar in my mouth all the time. I always had a cigar. When I was with a foreigner in a meeting like this, I would be smoking my cigars. Pictures would show me smoking cigars, or in an interview on television I was smoking cigars. And then the interview would be shown on television here, and you can imagine what people would think watching me smoke my cigars. Then I came to a decision that to really launch a campaign against smoking, I had to set the example and quit smoking. That was why I quit smoking. As I had a very strong motive, it was easier for me. I not only had a strong commitment; I had a strong motive. So, it was not so hard for me to stop smoking.

People used to ask me if I still smoked when I was alone because it seemed impossible to them that I could quit smoking cigars after all those years. I must be smoking at home.

**"THEN I CAME
TO A DECISION
THAT TO REALLY
LAUNCH A CAM-
PAIGN AGAINST
SMOKING, I HAD
TO SET THE
EXAMPLE AND
QUIT SMOKING."**





SHANKEN: *I question that, too. It's hard to believe that you've stopped completely.*

CASTRO: I said, look, in order to smoke, you need some accomplices. You need somebody to buy the cigars for you. You need somebody to hide the ashes that are left around. You need at least three, four, five accomplices who know that you are smoking cigars. They would know that you are doing something like that. They would know that you are smoking behind closed doors, and I wouldn't want three, four or five people knowing that I was deceiving others. So I chose not to do that.

SHANKEN: *You are saying that you do not smoke even in the privacy of your home by yourself?*

CASTRO: No.

SHANKEN: *Not even a puff?*

CASTRO: No. No.

SHANKEN: *Not even a little puff?*

CASTRO: Not one....A few days ago, I was in a meeting with a large Spanish firm. It was Tabacalera [the Spanish tobacco monopoly]. And they were analyzing different cigars and all that. And I did not try any cigars, even though it might have benefited our economic relations with them. I remember the quality of cigars and how a great cigar should be. (He picks up a Cohiba Esplendido.) They should not be too compact. And they should burn very evenly. Even if you light them in one corner, they soon come to an even

burn. With other cigars, if you do that, they continue to burn unevenly throughout the smoke.

What I used to smoke was the Cohiba, which was the one that was developed in the last 23 years. It was the 23 years that I smoked after the victory of the Revolution. It was the Cohiba that I preferred.

SHANKEN: *Which size did you prefer?*

CASTRO: It wasn't this one [points to the Esplendido (Churchill size)]. It was the smaller one [the Corona Especial]. I'll tell you something about the Cohiba. The Cohiba did not exist as a brand in Cuba. But one man who used to work for me as a bodyguard, I used to see the man smoking a very aromatic, very nice cigar, and I asked him what brand he was smoking. He told me that it was no special brand, but that it came from a friend who makes cigars and he gave them to him. I said, let's find this man. I tried the cigar, and I found it so good that we got in touch with him and asked him how he made it. Then, we set up the house [the El Laguito Factory], and he explained the blend of tobacco he used. He told which leaves he used from which tobacco plantations. He also told us about the wrappers he used and other things. We found a group of cigar makers. We gave them the material, and that was how the factory was founded. Now Cohiba is known all over the world. That was over 30 years ago.

SHANKEN: *Where does the name Cohiba come from?*

CASTRO: It is a native name. It was the name the native Indians gave to cigars.

SHANKEN: Was it the generic name for cigars or tobacco?

CASTRO: I am not sure exactly. So the new brand was created based on the experience of a tobacco grower who used to make cigars for himself. And in my view, it was the best cigar available. I did not like any others after that.

When I was a student before the Revolution, I used to smoke different brands. Sometimes I used to smoke Romeo y Julieta, Churchill, H. Upmann, Bauza, Partagas, but ever since I found Cohiba....It was so soft—and it was not an overly compact cigar. It was easy to smoke.

SHANKEN: When Cohiba became a brand, was it made exclusively for you?

CASTRO: At first when the tobacco grower used to make it, he used to make it for himself and the bodyguard. And then for some time, he used to send me the same cigars, but I found it so good that I thought it could be a new brand. I thought that it would be worthwhile setting up a new factory to make this cigar.

SHANKEN: You sound like a businessman.

CASTRO: I thought it was worth its own factory. All it needed was a name. And based on the type of cigars from that man, I had the factory established.

SHANKEN: This brand today is considered by many cigar lovers to be the finest brand of cigars in the world.

Castro [holds a Cohiba Esplendido]: This particular cigar is too tight in my opinion. The Cohiba should be easy to smoke. And it should burn very evenly, almost like a cigarette. I don't know much about the new Cohibas, but that was how the old ones were.

SHANKEN: I accept that you don't smoke cigars now, but do you ever dream about cigars?

Castro [laughs loudly]: Well, I have had dreams about cigars. Sometimes I used to dream that I was smoking a cigar. The funny thing is that it doesn't happen to me anymore. I think it happened to me in the first five years. Even in my dreams I used to think that I was doing something wrong. I was conscious that I had not permitted myself to smoke anymore, but I was still enjoying it in my sleep.

SHANKEN: I think tonight you may again dream about cigars.

Medical research is inconclusive regarding the health hazard of smoking cigars, if they are not inhaled. Why does the Cuban government take such a hard-line position against smoking cigars? I understand cigarettes, which are inhaled and may cause lung cancer, but why cigars?

Many intelligent people around the world, including doctors, smoke cigars. They understand that there are risks. And many doctors say that the risks of smoking a cigar are no greater than riding a motorcycle or speeding down a mountain on skis. So why are cigars lumped together with cigarettes?

CASTRO: It seems that we are having a real conversation here. We have the publisher of a magazine on cigars and a citizen of a country

whose economy depends on the production of cigars. [Everyone laughs.] I think that we based the decision on the conviction that cigars are bad for your health. That was when we launched our campaign. I think that cigarettes are more harmful than cigars. Even if a cigarette has a filter or not, people inhale them. I have never in my life inhaled a cigarette or a cigar. I simply enjoyed a cigar after lunch. You have to improve your digestion. I enjoy a cigar because of its aroma, its taste and watching the smoke.

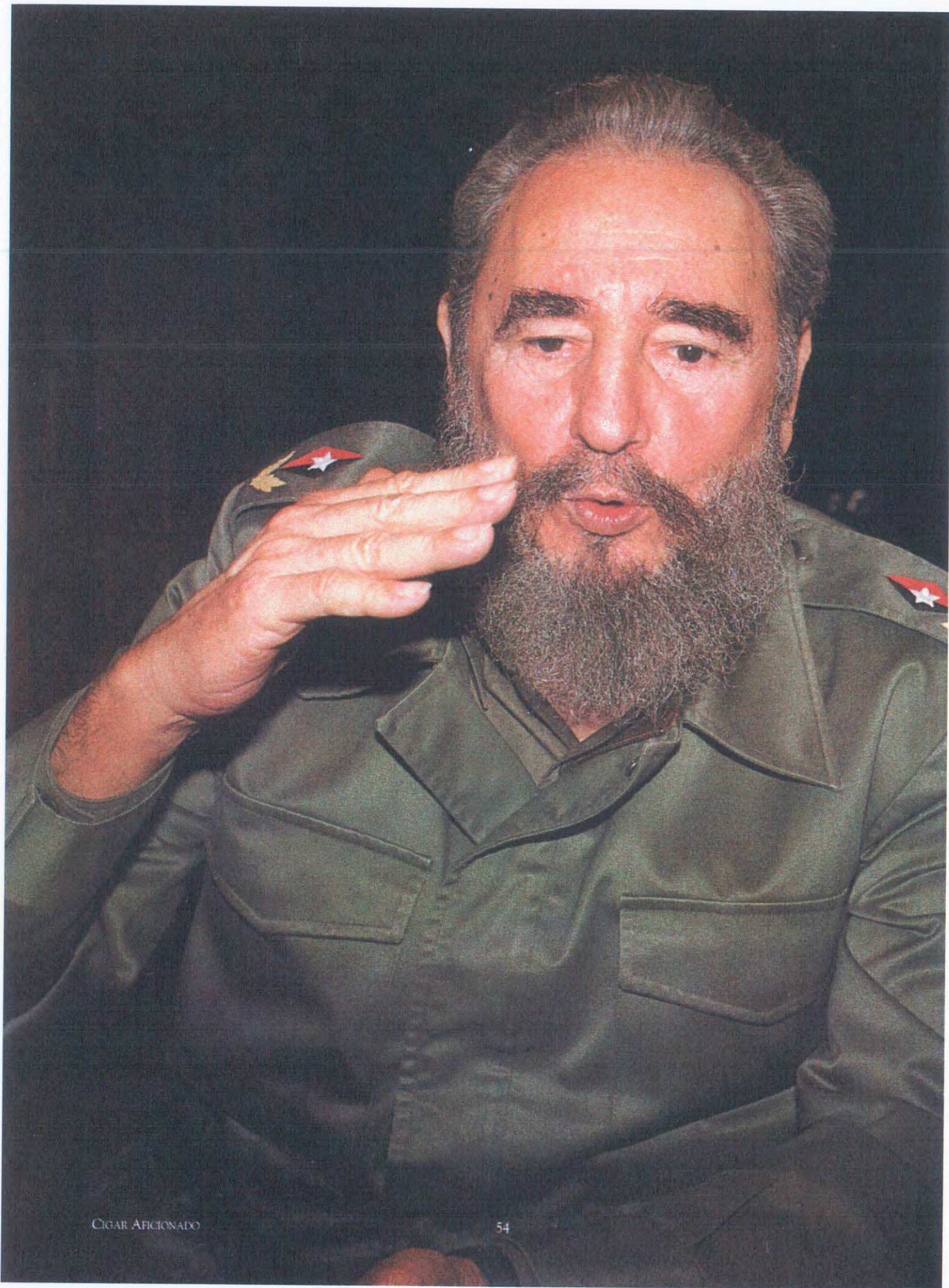
Of course, don't forget that my lung capacity was always good because I always exercise and I never inhaled smoke. I have preserved my health. Cigars are less harmful to your health, but according to doctors, many people who don't smoke are affected by smokers who sit nearby to them over a period of time. Anyway, we couldn't make a different policy for cigars or cigarettes, and I think that it is proof of the ethics of our country because from an economic point of view we want people to smoke cigars. Also, I couldn't be seen in magazines or anywhere else smoking cigars.

SHANKEN: It's a noble sacrifice.

CASTRO: I did it for reasons of health, even though my health was OK. It was a moral duty to contribute to the campaign against smoking. The World Health Organization had a campaign against smoking, and we were the first ones to support it. One day, in the same place that we are sitting now, a representative of the WHO came here to present me with two medals—one for not smoking and the other one for the government programs after the Revolution, which have turned Cuba into one of the countries with the best health ratings of Third World countries in the world.

So, you see, I can't smoke anymore. My commitment is very strong. It is final. It is a kind of commitment that I can't change.





Anyway, I may not smoke. I agree with you that there are many things that endanger men's lives such as traffic accidents or diseases. And many things can be done for health that are unrelated to cigars.

SHANKEN: *There are many educated people who are willing to take whatever the calculated risk is because they love cigars so much.*

CASTRO: It's a person's right. They know how they feel about it—not to drink, not to smoke, whatever.

SHANKEN: *Have you spent much time in the Vuelta Abajo or visiting the cigar factories?*

CASTRO: Yes. I have visited the Vuelta Abajo very often. I like it there. [Tobacco growing] is a very complicated and sophisticated cultivation process, one of the most complicated that I know.

**"I DID NOT TRY
ANY CIGARS,
EVEN THOUGH
IT MIGHT HAVE
BENEFITED OUR
ECONOMIC
RELATIONS."**

I forgot to mention something more about cigars. When I was in the mountains during the war, people used to send me cigars. Sometimes I would run out of cigars, and when I only had one left, I would put it in my shirt pocket and keep it. When did I finally smoke it? I would smoke it when I had very good news or very bad news. If it was good news, I would celebrate with a cigar, but if it was bad news, it really compensated for the bad news.

SHANKEN: *Do you remember signing a box of 50 Cohiba Lanceros? It was recently auc-*

tioned at a charity dinner in London to benefit medical relief for Cubans. Do you know how much the box sold for?

CASTRO: I heard it was very expensive.

SHANKEN: £12,000 (\$18,500).

CASTRO: I never heard how much it finally went for, but that is very impressive. I heard it was a record.

SHANKEN: *Let's move on to something a little more serious. The embargo. How has the production of cigars for export been affected because of your inability to get enough fertilizer, gasoline, tarpaulin and other resources for the growing of tobacco? You could export more cigars by lowering the standard of quality, but apparently you are not. I've been told that quality is your top priority.*

CASTRO: We feel that it is fundamental to maintain the quality of our cigars, which is an important legacy that we must preserve. And I think that the quality can even be improved. We are more worried about the quality than the quantity of cigars that can be produced.

We feel that the best cigars come from small areas, certain regions and climates where the finest tobacco can be grown. The great cigars of Havana come primarily from the tobacco of Pinar del Rio. It is difficult in other regions. We are familiar with the different soils that give the best kind of tobacco leaves.

For analyzing the locations, I have said that we have to do it like the wine producers. We have to preserve the uniqueness of our cigars. If you have a certain piece of land, let's say 20 or 30 hectares, and it makes a certain excellent quality of tobacco, we should grow tobacco there. You shouldn't go and grow it elsewhere. Many things contribute to this quality: the climate, the soil, the amount of sunshine. It is exactly like wine. The same things happen for the best-quality wines. However, there is more standardization of quality with tobacco than wine in my opinion. Wine can have an exceptionally fine harvest one year and then standard or worse the rest of the years.

In general, if tobacco is grown in the same soil, you can grow the same-quality tobacco leaves. It of course depends on the cultivation and technique, but this is a question of if you can grow more or less tobacco. It is also not a matter of the variety, as it is with other crops like wheat, which is a matter of producing more quantity. In this case, you have to find the best variety of tobacco to produce the best quality of cigars. That is our policy. In the case of the finest export cigars, we are taking measures that guarantee and improve the quality of the cigars that we are producing.

We have a very traditional cultivation. Many of the cigar-tobacco growers used to walk like this because of the number of hours they spent working in the fields. (He stands and walks hunched over like a field worker.) We should say that the tobacco growing takes many man hours. In terms of how much they are paid, it is not very fair. It's almost like slavery, but you cannot make a life out of it. But if you mechanize it, like the blond tobacco for cigarettes, you can make a living. But you cannot mechanize tobacco for cigars because it would sacrifice the quality completely. Tobacco for cigars is not a question of quantity. It has to be planted in a certain place, and it is a selected product. It is economic. It is not something to be exported as a raw material, but to be exported as cigars. This makes it worthwhile in terms of economics.

SHANKEN: *Trinidad. We understand that it is a brand of cigar that is your own personal brand, which you give to diplomats and friends as presents.*

CASTRO: No. I principally give Cohibas for presents.

SHANKEN: *You don't give Trinidads?*

CASTRO: No. I don't give Trinidads. I give Cohibas. I have been advising the people who are in charge of tobacco production, Cubatabaco, that they should come up with new brands and new blends. This would help the situation with the conflicts over the brands [with similarly named cigar brands from such countries as the Dominican Republic and Honduras]. If we have the best raw material, we have the best soils and the best know-how, why shouldn't we create new brands?

SHANKEN: *The El Laguito factory has a brand called Trinidad, which they say is for you to give as personal gifts. It has become a legend.*

CASTRO: I am not fully aware of that brand, but I assume it is like the Lancero in size from Cohiba.

SHANKEN: *It is the same size, but with a little darker wrapper. Are you going to allow Cubatabaco to sell it?*

CASTRO: I don't know about that cigar. I always had the Cohiba like this (points to a Lancero) and sometimes a little smaller.

It is really unfortunate that the American cigar smoker cannot purchase cigars from Cuba.

But I will tell you an anecdote about that. You know that [President John F.] Kennedy was the one that set up the blockade. Every time a friend of his came back from Cuba, he made sure that he brought back some Cuban cigars.

SHANKEN: *There are many Americans who buy Cuban cigars when traveling internationally. It is estimated that 8 million to 10 million Cuban cigars a year are smoked by Americans.*

CASTRO: That's very interesting.

SHANKEN: *On to another subject. Did you smoke a lot of cigars with Che Guevara?*

CASTRO: Yes. Che used to really enjoy smoking. I think he appreciated it as much as he appreciated Argentine beef.

SHANKEN: *After the Revolution, we have read that the government decided to stop using the traditional brand names, and that they would have one brand name, called Siboney, for all export cigars. That never happened. Do you have any recollection of that?*

CASTRO: That would have been insanity! That would have been crazy. I always wanted them to create new brands.

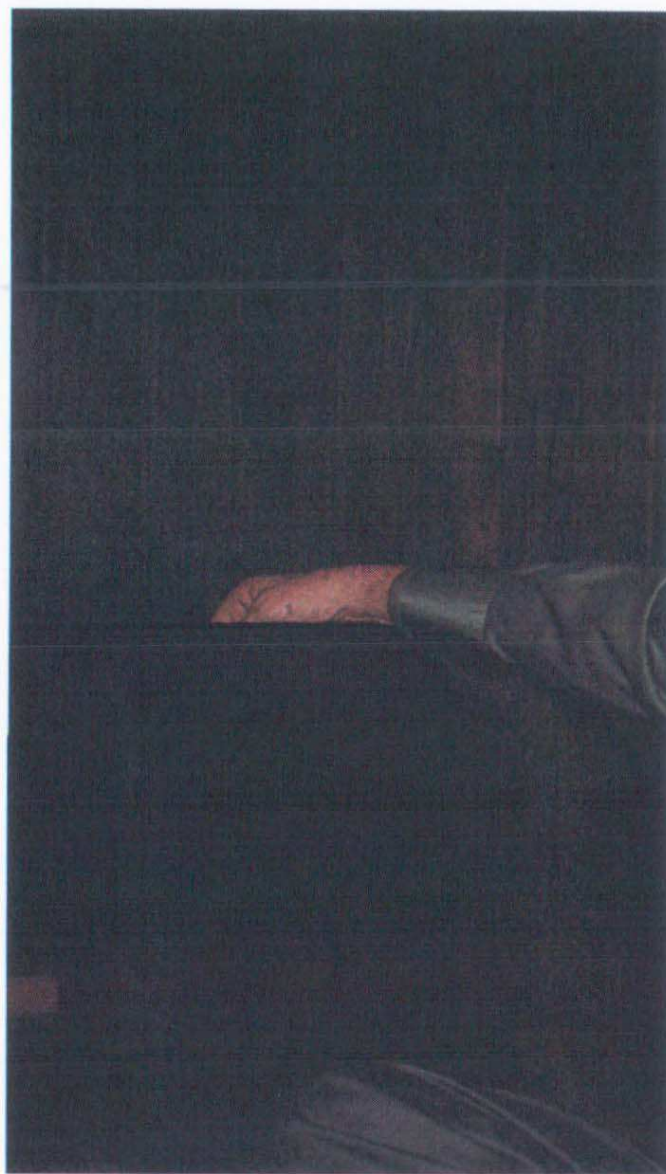
SHANKEN: *If you and President Clinton ever get together, would you smoke a cigar with him, symbolic of peace at last between our two countries?*

CASTRO: Now that would be an interesting thing. As I told you, when I was in the Sierra Maestras [mountains of Eastern Cuba] during the Revolution, and I had good moments, I would smoke my last cigars. Perhaps something like that would bring back my old habit from the days of the Sierra Maestras, but I would have to ask for permission from the World Health Organization. I wouldn't want to lose my medal.

SHANKEN: *I know the issues are great and complex, but do you see the day soon when America and Cuba will work together as neighbors and friends as they did many years ago?*

CASTRO: I hope that day will come sometime, but no one will be able to say when that will happen. It is not an easy thing to happen. As for our side, we do not have any particular objections, nor do we lack the will.

SHANKEN: *Have there been any private negotiations to try to come to a mutual understanding that will result in the elimination of the trade embargo?*

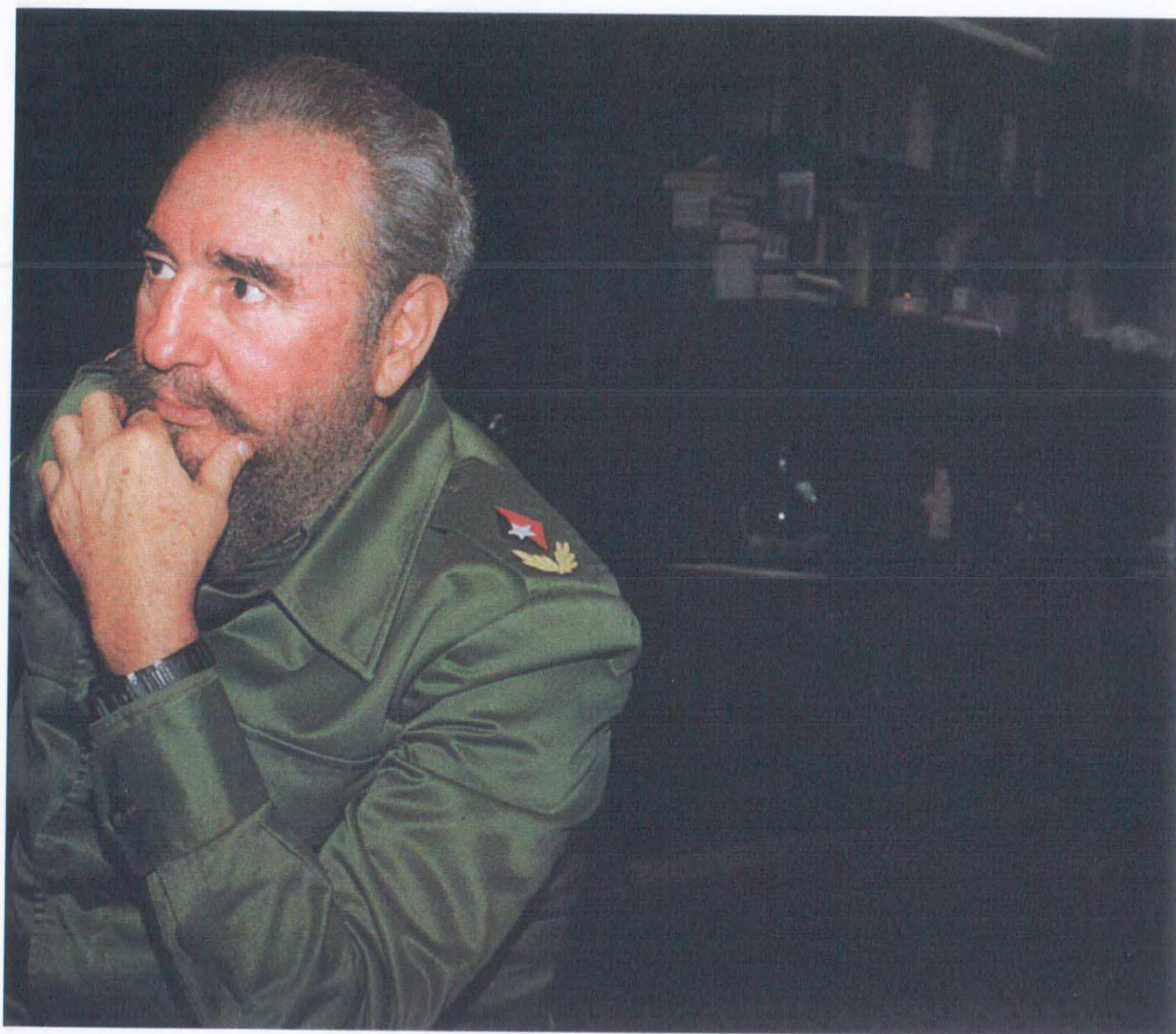


CASTRO: No. No, not at this time.

SHANKEN: *The American trade embargo against Vietnam is ending. Russian and U.S. relations have been turned around. Even Israel and Palestine are trying to get together. Why is it, in your opinion, that Cuba continues to be embargoed? It is a question that we all ask. What do you think?*

CASTRO: It is difficult to answer. It doesn't stand up to logic. Perhaps it is because we are too close geographically to the United States. Perhaps [because] we have resisted the blockade for over 30 years. Perhaps it is a matter of national pride for the U.S. government that has turned us into an exception and has given us the honor to be its only long-standing adversary. I think it is not logical. I don't know what history will say though.

SHANKEN: *There would be many benefits to both sides, if you were willing to take the first step.*



CASTRO: How can we take the first step? We are the ones whom the blockade is imposed against. If we had a mutual blockade, then we could take the first step. But how can we? The first step should be taken by the U.S.

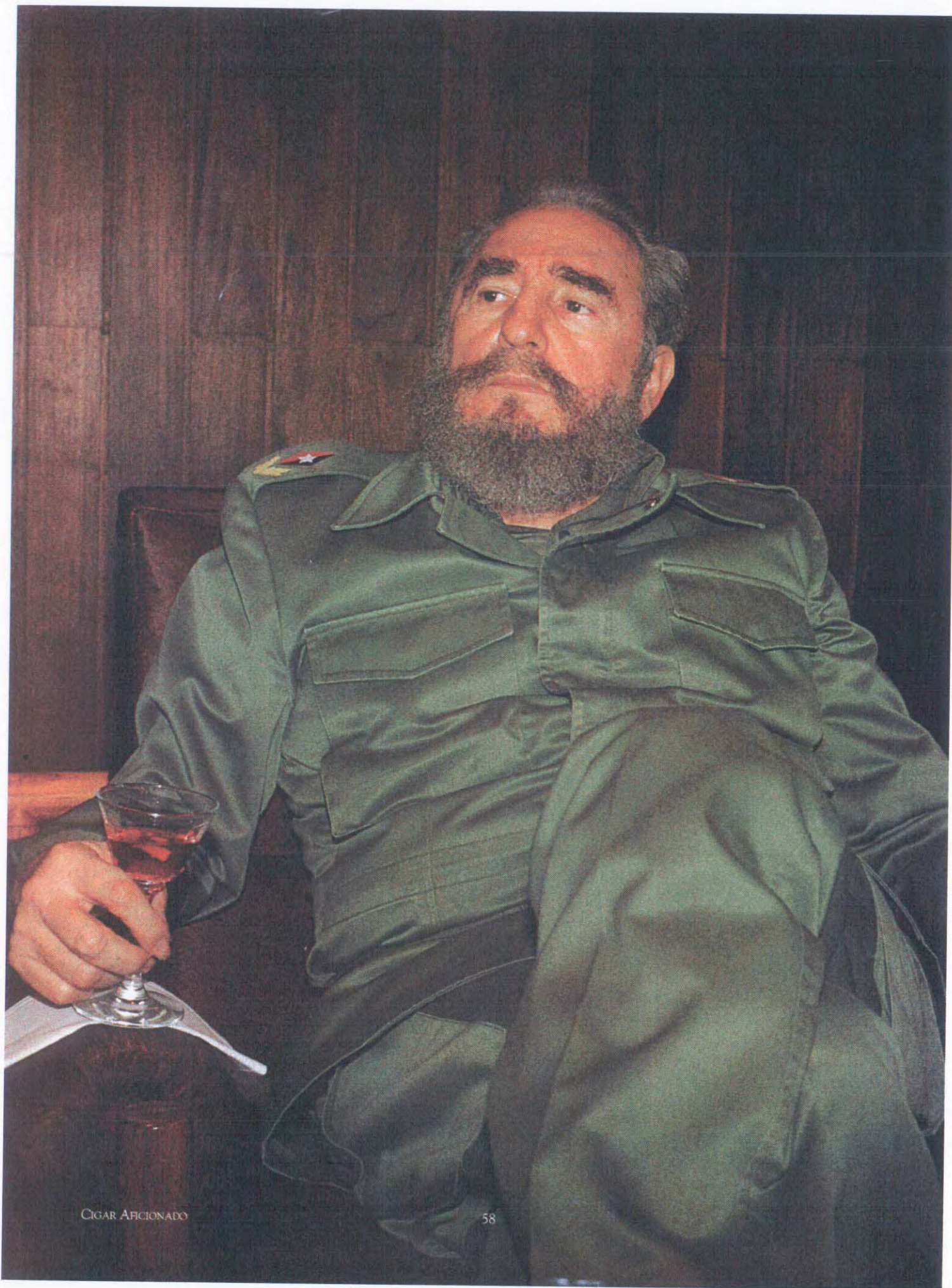
SHANKEN: *From what I read, the American government is looking for Cuba to undergo political reform and improvement in its human rights.*

CASTRO: That is the pretext that they use, and for many years they have used many different pretexts. At one time when we were in Africa, they used to say if the Cubans withdrew from Africa, then the relations would improve. That pretext was left behind. Later they said that when the links with the Soviet Union were cut off, then our relations would begin with the United States. Now the Soviet Union is not supporting us anymore, and nothing has changed. They keep on moving the goalposts back. Before it was Latin American subversion, the situation in Central America...and when they talk about reforms in Cuba, it is a precondition that we cannot accept because

it has to do with independence and the sovereignty of our nation. It would be like if we were to give a precondition to the United States that it must change something in the Constitution in order for us to open up relations again. That's absurd.

As far as human rights, and I will try to keep my answer brief, no one in the world has done more than Cuba has done for human beings, for its citizens—no one else, in every sense. The best evidence of that is that our health programs have saved the lives of over 300,000 children, and we have been helping out in other places around the world with our doctors, medicines and knowledge, more than any other country in the world. So, I think that no other country has as unblemished behavior about human rights considering how much we have done for man. That is a legend. It is a fabrication. It is an unjustifiable pretext.

SHANKEN: *There are two issues that seem to come up. The first is about the Soviet missiles [in Cuba] in the '60s aimed at the United States.*



CASTRO: There are not any missiles anymore.

SHANKEN: *The second issue regards compensation for the properties taken from private Cuban citizens at the time of the Revolution. I would like to know your thinking as to whether or not there is any way to satisfy the Cuban-Americans whose properties were taken so that we can move on to the bigger agenda of living together in a neighborly way?*

CASTRO: Those thousands of Cubans whose economic situation were affected by the Revolution were people who had experience in business, and thanks to the Revolution, they were given facilities in the United States that they would have never received if the

Revolution had not been victorious. Those people are wealthier now than they were in Cuba. That they owe to the Revolution.

It would be to create a hope that our country were in an economic situation which would allow it to compensate those people whose property was taken. We cannot create that expectation because we do not have the resources and, also, because of the blockade, our country has been suffering great losses, several billion dollars' worth. We are a small country, and the blockade has been very harmful to us. Now we are suffering more with

the demise of the Soviet Union and the socialist states, with which we supported ourselves. But we are still striving. We are putting up a fight, and we are trying our best.

You can be assured that, if, instead of Cubans there were Americans here setting the example that we are setting as far as our capacity for struggle and resistance, the American nation would be proud.

SHANKEN: *Perhaps people in Washington will read this interview and begin to think more about how this impasse can be overcome.*

CASTRO: It is a struggle between Goliath and David. Let's see if they wish one day to leave David alone. You say that Clinton smokes cigars!

SHANKEN: Yes. He has smoked for many years. But his wife, Hillary, has created a no-smoking policy in the White House. So now he just chews cigars, it seems.

CASTRO: Then I guess President Clinton and I will not be able to smoke our peace pipe or cigars in the White House.

SHANKEN: *The American press repeatedly refers to the very poor conditions here in Cuba. The enormous shortages. The human suffering. Some are convinced you will fall soon or your government will be overthrown or perhaps you will step down. Like a great Broadway show, you have had a long run. Is it time to give someone else a turn? Do you have any such plans?*

CASTRO: I wish I could. I wish I were free to do what I want to do. In easy times, you know, it is easy to talk about that, but in the hard times that we are living now, I would be shrugging off my responsibilities to my country if I did this. It would be like deserting the front line in the heat of the battle. I could not do that. I am not the owner of my life anymore. The most I can do is accept the responsibilities that I have been invested with by my fellow citizens and try to carry out those responsibilities for as long as I have them. But believe me I would enjoy now to be free to do what I would like to do; however, it is not possible for me to have the freedom in the hard times that I am living in now. Perhaps I could even smoke cigars again without all these very important obligations.

There are many things I would like to do. I wish I were the problem. The problem is the Revolution, and the problem is our ideas. The United States, or some people in the United States, they do not just want Castro's retirement. They want the total destruction of the Revolution. And that is what the majority of our people would not accept.

There is a new generation of Americans, and in the history of America, many similar things happened. First, you had the struggle for independence against the British with a long struggle that had great repercussions on the world. There was the Civil War in the days of Lincoln, which brought about great changes in American society.

Now in the United States there is not a revolution but an evolution. But there are still many injustices to be changed. There are many people who are struggling in the United States for equality and social justice. One of the countries in the world where there are more social differences is the United States. The difference between the average salary of the workers and the executive. The executive makes 90 times' more than the average worker.

There are many injustices in the United States, but that is your task to change and not mine. I would not set up preconditions for relations based on these injustices. On a realistic basis, we should respect each other, and, in the world, peace should prevail. There was a great Mexican leader who said that respect for other peoples' rights is peace. So peace should be based on mutual respect. ♦

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
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Respondent.	:	
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PARTY DESIGNATION: See Appendix Cover Sheets

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Designated Federal Action Plaintiff's Written Direct
Testimony and Appendices of Ana Lopez Garcia, dated May 27, 2003
Part 4 of 4**

(Appendices to Written Direct Testimony not highlighted to preserve clarity)

* Designations made pursuant to the marking and filing procedure the Board has previously approved, TTABVue Nos. 138, 136, 135, 132, 91 and 89.

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**Appendix L to Federal Action Plaintiff's Written Direct
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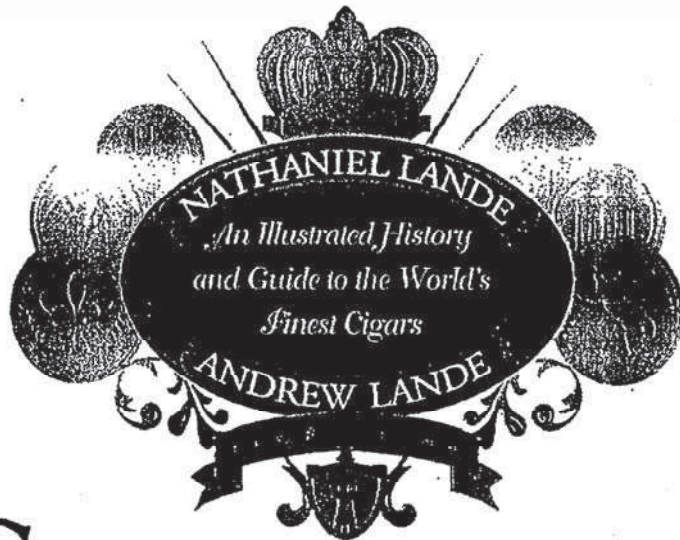
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**Appendix M to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



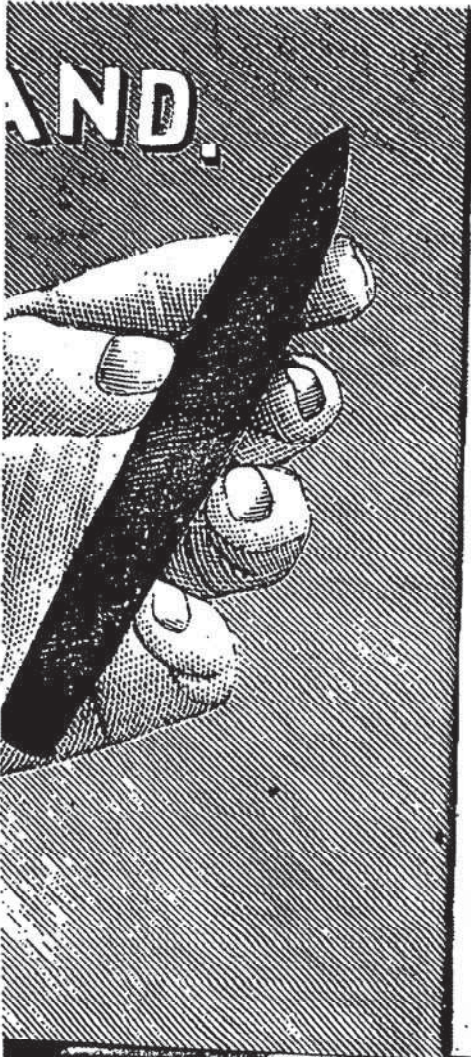
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This book was crafted with the help of our friends and pals, Laurie Liss, Roger Vergnes of Copperplate Press, and Pam Krauss.

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Sandra Levinson
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Their friendship and contributions are invaluable. The authors thank them with deep appreciation.

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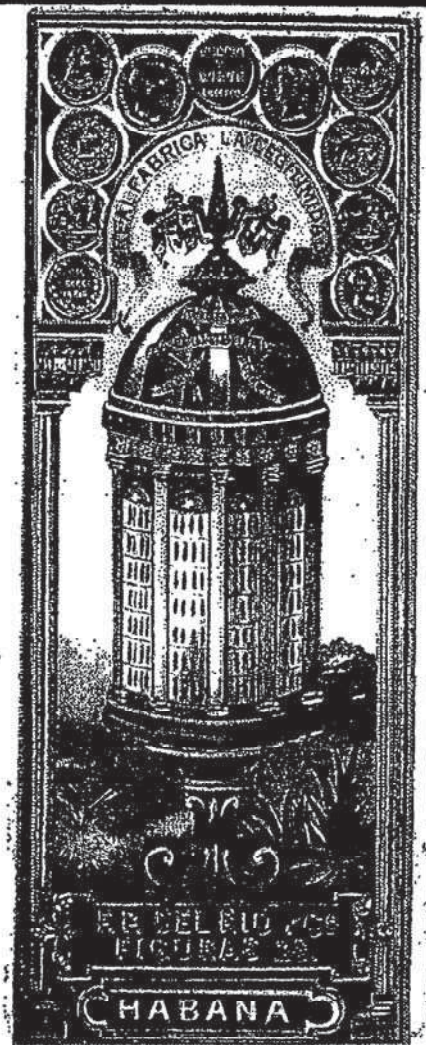
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Mary Foster
Yancy Hughes
and
Shaye Areheart

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

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EMPRESA CUBANA DEL TABACO, d.b.a.	:	
CUBATABACO,	:	
	:	
Petitioner,	:	
	:	Cancellation No. 92025859
v.	:	
GENERAL CIGAR CO., INC.	:	
	:	
Respondent.	:	
	:	
	:	
-----		X

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

**Appendix N to Federal Action Plaintiff's Written Direct
Testimony of Ana Lopez Garcia, dated May 27, 2003**



Cigar Aficionado Ratings